524.

SUPREME COURT OF THE UNITED STATES.

No. 24.

BANK OF THE UNITED STATES, APPELLANT,

VERSUS

E. LEE, E. J. LEE, AND RICHARD SMITH.

ON APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR WASHINGTON, D. C.

INDEX.

	Original.	*Print.*
Citation	1	3
Style of Court	5	3
Parties	5	3
Bill of Complaint	6	4
Answer of E. J. Lee	23	12
Exhibit No. 1, referred to in Lee's Answer	27	14
Ditto No. 2,	28	15
Deed No. 3,	29	16
Ditto No. 3,	34	18
Ditto No. 4,	37	20
Elizabeth Lee's Answer	39	22
Deed No. 1, referred to in E. Lee's Answer	53	27
Ditto No. 2,	58	31
Exhibit No. 4,	72	38
Part of Exhibit No. 4	73	39
Exhibit No. 7	75	40
General Replication	77	41
Richard Smith's Answer	78	42
Deed R. B. Lee and wife to Zaccheus Collins	81	44
Deed Zaccheus Collins to Elizabeth Lee	86	46
Deed R. B. Lee and wife to Washington and Lee	90	48
Deed Lee and wife to Richard Smith	102	54
Agreement of Counsel	109	58
Decree of Court	111	58
Appeal Bond	111	59
Clerk's Certificate	113	59

Langtree & O'Sullivan, Print.

525.

DISTRICT OF COLUMBIA, *sct.*

The United States of America to Elizabeth Lee, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States on the day of , pursuant to an appeal from the decree of the circuit court of the District of Columbia, sitting as a court of equity for Washington county, in a cause wherein the President, Directors, and Company of the Bank of the United States were complainants, and you and a certain Edmund J. Lee and Richard Smith were defendants, and show cause, if any you have, why the said decree should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness the Hon. William Cranch, chief judge of the said circuit court.

Issued this 3d day of January, 1838.

W. CRANCH.

Service admitted,

JNO. MARBURY,
For Defendant.

DISTRICT OF COLUMBIA, *ss.*

Style of Court.

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of November, being the twenty-seventh day of the same month, in the year of our Lord one thousand eight hundred and thirty-seven, and of the independence of the United States of America the sixty-second.

Present: The Hon. William Cranch, chief judge; Buckner Thruston, and James S. Morsell, assistant judges; Alexander Hunter, Esq., marshal; William Brent, clerk.

In the record of the proceedings of the said court, among others, are the following, to wit:

Parties.

THE PRESIDENT, DIRECTORS, AND COMPANY OF THE BANK OF THE UNITED STATES
against
ELIZABETH LEE, EDMUND J. LEE, AND RICHARD SMITH.

Be it remembered that heretofore, to wit, on the fifth day of August, in the year of our Lord one thousand eight hundred and thirty-

four, the said complainants, by Richard S. Coxe, Esquire, their solicitor, filed in court here the following bill of complaint, to wit:

Bill of Complaint.

To the Honorable the Judges of the Circuit Court of the District of Columbia, for the county of Washington, sitting as a Court of Equity:

Humbly complaining, show unto your Honors, your orators, the President, Directors, and Company of the Bank of the United States, that in the year one thousand eight hundred and seventeen, a certain Richard Bland Lee, then residing in the city of Washington, did apply to your orators at their Office of Discount and Deposite, in the city of Washington, for the loan of a large sum of money, and upon such application, did represent himself able and willing to give ample and satisfactory security for the reimbursement and repayment of the same; and did further represent himself as the sole and lawful owner of the property hereinafter particularly mentioned, and which said property was then in the possession of the said Richard, as the owner thereof, and upon the public records of said county there appeared nothing to induce a doubt or suspicion of the truth of such his representations.

And your orators further show that the President and Directors of said Office of Discount and Deposite, did assert to such application for said loan, and did agree to advance, by way of loan, to the said Lee, the sum of six thousand dollars, upon his giving good and sufficient security upon said property for the repayment of the same, fully confiding in the honor and integrity of said Lee, and in the truth of such his representations as aforesaid; and the said President and Directors did, thereupon, loan and advance to the said Richard Bland Lee, the said sum of six thousand dollars, for which, and to secure the repayment thereof, he, the said Richard, executed and delivered his promissory note, endorsed by Edmund J. Lee and Walter Jones, Esquires. And further, to indemnify and secure your orators for the said loan, and in compliance with the terms so proposed and accepted, the said Richard Bland Lee did, on or about the eleventh day of June, in the year one thousand eight hundred and seventeen, execute and deliver in due form of law, a certain deed of indenture to Richard Smith, by the name and style of Richard Smith, of said city and District, cashier of the Branch Bank of the United States, commonly called the Office of Discount and Deposite.

And your orators further show unto your Honors, that in the said deed it was recited and set forth, that the President and Directors of the said Office of Discount and Deposite did, on the day preceding the date of said indenture, loan unto the said Richard Bland Lee the sum of six thousand dollars lawful money of the United States, on his note, bearing date on the day preceding the date of said indenture, and endorsed by Edmund J. Lee and Walter Jones, as joint endorsers, payable at the end of sixty days, with liberty to renew the same at the discretion of the said President and Directors, &c. And that

526

he, the said Richard Bland Lee, bargained and sold unto the said Richard Smith, cashier as aforesaid, and acting as aforesaid, and his executors, administrators, and assigns, the following slaves, namely: Peter, commonly called Peter Jones, Alexander, Henry, and John, valuable young men, Frank, a valuable boy, Kitty Caroline, young woman, Harriet and Milly, valuable girls, and Letty and her two sons, William and Albert, the whole of said slaves valued at five thousand dollars; also, all the household furniture of the said Richard Bland Lee, estimated as follows: plate, five hundred dollars, glass and china, five hundred dollars, beds and chamber furniture, five hundred dollars, looking glasses, prints, carpets, sideboard, piano, tables, chairs, five hundred dollars, and kitchen furniture and other utensils, two hundred dollars, making, in the whole, on a just estimate, the sum of seven thousand two hundred dollars: to have and to hold the above mentioned slaves and other property, unto the said Richard Smith, and his executors, administrators, and assigns, for ever; but, upon this express trust and confidence, that is to say, in case the said Richard Bland Lee, his executors, administrators, or assigns, shall fully pay and discharge the aforesaid loan of six thousand dollars, or the same shall be fully paid and discharged by the sale of a certain house and lot, conveyed on the day of the date of these presents, by Overton Carr, for and on account of the said Richard Bland Lee, then this indenture, and every part thereof, shall be null, void, and of no effect; but if the said loan of said six thousand dollars, shall have been demanded by the said President and Directors for the time being, of said Office of Discount and Deposite, and shall remain unpaid for the space of thirty days, then the said Richard Smith, or his executors, administrators, or assigns, shall, after giving thirty days notice in some one newspaper, printed in the city of Washington, proceed to sell, for ready money, all, or so many of the said slaves, and so much of the said household furniture, as may be sufficient to pay and discharge the said loan, or any part thereof remaining due. And the said deed further reciting that said Richard B. Lee had a claim on a certain John Hopkins, of the town of Alexandria, in which, if the said Richard Bland Lee shall eventually succeed, the said Hopkins will owe to said Richard Bland Lee a sum exceeding eight thousand dollars, in money or in land: witnesseth, that the said Richard Bland Lee did make over and assign to the said Richard Smith, all the aforesaid claim in trust to be applied to the payment of the aforesaid loan, in case the same should not be otherwise discharged by the sale of the aforesaid slaves, or other personal property, therein before enumerated and described, as in and by the aforesaid in part recited indenture, duly recorded among the land records of the said county of Washington, and which your orators have, ready to produce when and where your Honors shall direct and appoint, and which they pray may be taken as part of this their bill, will more fully and at large appear.

And your orators further show unto your Honors, that the said debt of six thousand dollars, with a large accumulation of interest and costs, remain wholly unpaid; and that your orators have endeavored to

enforce payment thereof by proceedings against the said Richard Bland Lee in his life time, and against the said Walter Jones, endorser as aforesaid, and have obtained judgment thereon against the said parties. And your orators further show, that at the special instance and request of the said Richard Bland Lee, in his life time, and of Elizabeth Lee, his widow, since his death every exertion has been made to obtain payment of the said debt from the said property so conveyed by Overton Carr, and from the said claim against John Hopkins; but all these efforts have proved entirely unavailing, and the said sources of payment are now wholly valueless.

And your orators further show unto your Honors, that the said Richard Bland Lee died about the year 1827, intestate, and that no administration has been had or obtained upon his estate, and they have heard and believe, that he died insolvent. And they further aver and charge, that said Elizabeth Lee, his widow, has taken possession of all the slaves and their increase, and the furniture, plate, and personal property, mentioned and included in said above, in part recited deed of indenture to said Richard Smith, and holds the same, and wholly refuses to deliver up the same, or any part thereof to your orators, or to the said Richard Smith, trustee as aforesaid, so that the same may be applied in the manner and to the purposes contemplated and expressed in said deed of trust. And the said Elizabeth, likewise, refuses to inform your orators or the said Richard Smith, where the said negroes and other property mentioned in said deed of trust, now are, or what disposition has been made of the same, or to furnish any list or statement of the increase of said negroes, or any account of the said plate, furniture, utensils, &c., mentioned in said deed of trust, so that your orators and the said Richard Smith, trustee as aforesaid, are wholly unable to identify and ascertain the said property, or to obtain possession thereof, or to institute proceedings at law for the purpose of obtaining possession of the same, with the exception of some few slaves, who being, as your orators had heard and believed, in the actual possession of the said Elizabeth, the said Richard Smith caused a writ of replevin to be issued out of your honorable court, for the purpose of acquiring possession of the same; and your orators refer to said proceedings in said action of replevin, and aver that said negroes mentioned therein, are part and parcel of the negroes enumerated in said above recited deed of indenture, or the increase of some of them; and that, under said deed, the said Richard Smith, as trustee as aforesaid, is legally entitled to the possession of said negroes, in order that he may apply the same in conformity with the provisions of said deed; but, in order to make their proceedings, as far as practicable, and consistently with their own right and duties, courteous and agreeable to the feelings and wishes of said Elizabeth, your orators have assented to an arrangement made with said Elizabeth, under and by which the said negroes so replevied, are to continue in her charge and custody until the respective rights of the parties shall be ascertained judicially in said suit.

And your orators further aver and charge, that the said possession so taken and retained, of said property, enumerated and comprehended

in said deed to Richard Smith, is without any legal authority; but, on the contrary, illegal and tortious, and that she, the said Elizabeth, has made herself responsible as executor in her own wrong of said Richard Bland Lee. And they further aver and charge, that they have frequently, in a friendly manner, called upon said Elizabeth since the death of her said husband, to pay the said debt so due to your orators, with the interests and costs which have accrued thereon, or to surrender and yield up the said property, slaves, furniture, plate, and other articles embraced and included in said deed of indenture above recited, or to furnish to your orators or the said Richard Smith, some list or schedule of the same, with a statement showing what, where, and in whose hands and possession the same now are, so that the said Richard Smith might proceed to fulfil and execute the stipulations and provisions of said deed so made to him as aforesaid; with each and every of said reasonable requests of your orators, the said Elizabeth hath at all times wholly refused to comply, but persists in holding said property, slaves, and furniture, and secretes and conceals and disposes of the same, and utterly refuses to pay the said debt, or any part thereof; whereby your orators and the said Richard Smith, are wholly unable to obtain possession of the said property, or to execute said deed of trust, or to obtain payment of any portion of said debt. And your orators have heard and believe, and therefore aver and charge, that the said Elizabeth sometimes asserts and gives out in speeches, that the said Richard Bland Lee, at the time of making and executing the said deed as aforesaid, to the said Richard Smith, had no right or title to the said slaves, plate, furniture, and property, mentioned and included in said above mentioned deed to said Richard Smith, and designed to be thereby conveyed; but, that the same had previously to the date thereof, been conveyed by said Richard B. Lee to certain trustees, to the use of the said Elizabeth his wife, and she has, within a few months past, pretended and alleged that she had discovered and procured a certain deed purporting to be executed by said Richard B. Lee to a certain Edmund J. Lee, William Maffatt, and Richard Coleman, as trustees, for her use and benefit, conveying all the said property to them, the said trustees, in the month of January, 1809. And she has exhibited said pretended deed to your orators, and claims and insists that the same was duly executed, and that it legally operates to pass all the said property to the said trustees for her use and benefit; and thereupon wholly denies all right and title of your orators, and of the said Richard Smith, as trustee, under the first above mentioned deed; but your orators are advised, and therefore aver and charge, that if any such instrument or deed as is pretended and alleged, ever was, in fact, made and executed by the said Richard Bland Lee, and at the time when such deed purports to have been made and executed, such deed was voluntary and fraudulent and void as against your orators, who are bona fide purchasers for a valuable consideration, without notice of any such deed as is now set up to defeat their right and title, and also fraudulent and void, as against the said Walter Jones, who was endorser of the note of said Richard Bland Lee to your orators, intend-

ed to be secured by the said deed to said Richard Smith, and entitled to invoke its protection to shield himself from ultimate responsibility for and on account of said endorsement. And your orators do require that the said Elizabeth, if she asserts any claim under said pretended deed made before this honorable court, full and complete proof of the deed, execution, acknowledgment, and registering of said deed. And your orators are further advised, and do, therefore, aver and charge, that the considerations mentioned and expressed in said pretended deed from said Richard Bland Lee to Edmund J. Lee, William Maffit, and Richard Coleman, even if the same were, in fact, true and truly expressed and set out, which your orators, however, do by no means admit; but, on the contrary, deny, and require that the said Elizabeth shall make due, full, and complete proof thereof, before she shall be permitted to plead or set up said instrument in derogation of the rights of your orators, are wholly insufficient in law or equity to give validity to such deed, particularly as against your orators, who are creditors and bona fide subsequent purchasers, without any notice or intermation of such pretended prior conveyance. And your orators aver, that at the date of said pretended deed, the said Richard Bland Lee was largely indebted, and incompetent at law to make any such deed for the benefit of his wife and family. And your orators do further aver and charge, that if said pretended deed so purporting to have been made by said Richard B. Lee to said Edmund J. Lee, William Moffit, and Richard Coleman, was, in fact, duly executed, and upon legal and adequate considerations, yet that the same was executed in the Commonwealth of Virginia; that the said trustee never did, nor did either of them, ever act under the same, or take possession of the property therein embraced and contained, but suffered and permitted the said Richard Bland Lee, at all times, and without interruption, from the period of its date, to retain possession of the same, and to use, enjoy, and dispose of the same, to and for his own use and benefit, and to carry and bring the said negroes, plate, furniture, and other property, from the said Commonwealth of Virginia into the District of Columbia and county of Washington, and there to continue his said possession, use of, and control over, the same, as if he were the absolute, entire, and unqualified owner thereof; and that said pretended deed never was recorded in said county of Washington, nor any notice given to the public or to your said orators, of its existence, during the life time of the said Richard Bland Lee, or for many years subsequent to his death, but he, the said Richard Bland was permitted and allowed to be and continue in the full, public, and notorious possession and use of all the said property as the owner thereof, to obtain credit and contract debts upon the faith of his being such owner, to sell and dispose of parts of the same, without any assertion of right or title on the part of or by said trustees or said Elizabeth; and particularly, your orators charge and aver, that the said Elizabeth, who now claims under said pretended deed the beneficial interest in said property, and the said Edmund J. Lee, one of the grantees in the same men-

tioned, and who is, as your orators believe and charge, the sole surviver of the said grantees, knew that your orators had made the said loan of six thousand dollars to the said Richard Bland Lee, in full faith that he was the real and unqualified owner of said property, of which he was thus in the full and unquestioned possession and enjoyment, and knew that he made and executed the said deed of trust to said Richard Smith, to secure the repayment thereof. Nevertheless, neither the said Elizabeth nor the said Edmund J. ever communicated to your orators or the said Richard Smith, either directly or indirectly, at the time of said loan, or at any other time subsequently, during the life time of the said Richard Bland, nor until several years after his death; the existence of the said deed now so inequitably produced and set up in derogation of the rights of your orators, or any right, title, claim, or interest, inconsistent with the said deed to said Richard Smith, nor did they, or either of them, ever, during the period aforesaid, inform, notify, or intimate, any manner or way, to your orators or said Richard Smith, or give either of them any reason to suspect or believe that there was any defect or imperfection in the title derived by and under the said deed from Richard Bland Lee to Richard Smith, or that they, or either of them, had any claim or title, or pretence of claim or title, to the said slaves, plate, furniture, or other property in the said deed mentioned; all which actings and doings of the said Elizabeth and Edmund, and their omissions and negligences as aforesaid, are, as your orators are advised, in contemplation of law, fraudulent, as against your orators, and preclude them, the said Elizabeth and Edmund, and each of them, in law and equity from asserting or setting up any right, title, or claim, to any portion of said property against your orators. And your orators are advised, and humbly insist before your Honors, that the said pretended deed from Richard Bland Lee to said Edmund J. Lee, William Moffit, and Richard Coleman, is, for the reasons and on the grounds above mentioned, fraudulent and void; and that if the same ever had any legal validity, it ought now, by the decree of this honorable court, to be annulled, vacated, and avoided.

For as much, however, as your orators are remediless in the premises, as and by the strict and peculiar rules of the common law, and can have full and adequate relief only in equity, where matters of fraud, trust, and account, are properly cognizable and relievable, and where alone full and perfect discovery can be had. To the end, therefore, that the said Elizabeth Lee and Edmund J. Lee, and Richard Smith, may be and appear in this honorable, and upon their several and respective corporal oaths, true, full, and perfect answer make to all and singular the premises, as if the same were here again repeated, and they thereto particularly interrogated; and especially, that the said Elizabeth may set forth and declare whether your orators did not loan to the said Richard Bland Lee, at the time alleged, the sum of six thousand dollars, or what amount; whether the note of the said Richard Bland Lee, and endorsed by Walter Jones and Edmund J. Lee, as aforesaid, was not given therefor to your orators; whether the above mentioned deed of trust to Richard Smith,

was not duly executed by the said Richard Bland Lee, to secure the due payment thereof; whether any, and what other security was given for the said debt; and whether she was not, at the time of said loan, informed or apprised of the same, and of the security given therefor; or when, how, and from whom did she receive her first information and intelligence relative thereto; and how was the money so borrowed from your orators expended or applied, or in the purchase or improvement of what property; and whether your orators or the said Richard Smith were at the said time informed, and given to understand, and by whom that said Richard Bland Lee had executed any previous deed or given any previous lien for or upon said property mentioned in the deed to Richard Smith, or for or upon any portion or part thereof; and whether the said Richard B. Lee was not, at the time of the execution of said deed to Richard Smith, in full possession of all the property mentioned in the said deed, as intended to be conveyed thereby, or of how much, and which part thereof was he so in possession; and whether he had not been in possession of the same from the date of said pretended conveyance to Edmund J. Lee, William Maffitt, and Richard Coleman; and whether such possession was with the knowledge and assent of the said Elizabeth, Edmund, William, and Richard, or of any, and which of them; whether such possession was not had of said property in Virginia, and up to the time of the removal of said Richard Bland Lee from Virginia to the county of Washington, and in the county of Washington, from the date of his said removal until his death; and when did he so remove and die, whether during the continuance of such his possession, he did not appear to the public to be the unqualified owner of said property, and alone control or enjoy it, or who did, to what extent, and at what times; whether the said Richard, at any time subsequent to the ninth day of January, 1809, sold, or in any manner disposed of any of the slaves or other property mentioned in the said pretended deed to Edmund J. Lee, William Maffitt, and Richard Coleman, and if so, upon what terms, in what capacity, and who received the purchase money, and how was the same applied. In whose name were the slaves and other property mentioned in said deed to Richard Smith assessed, at and before and since the date of said deed, and who paid the taxes therefor; whether the said Richard Bland Lee was, on the 9th day of January, 1809, indebted to various persons, to whom, and to what amount respectively; and whether he did not continue to be largely indebted up to the period of his death; whether he left any will, and whether there have been any letters testamentary or letters of administration obtained upon his estate, when, and by whom; whether he did not die insolvent; whether the said Elizabeth has not since his death, held posseseion of all, or how much, and which of the property mentioned in said deed to Richard Smith; and what property was in the hands and possession of said Richard Bland Lee at the period of his death; where are the said slaves, plate, furniture, household utensils, &c., mentioned in said deed to said Smith, and that said Elizabeth furnish a list or schedule of the property so included in said deed, and set forth, and

state minutely, where the same now is, in whose hands or custody, by what right or title, and what disposition has been made of the same, and of the proceeds of such as may have been disposed of; and how much of the same is now in her custody, or under her control; what has become of so much thereof as is not now in her possession or power; that she may set forth whether the slaves named in the said proceedings in replevin, are not part of those embraced in said deed to Richard Smith; and whether she has not, by herself, or her authorized agent, agreed with your orators to retain the same subject to the judgment of the court in said suit; that she may set forth and declare when she first notified, or caused to be notified your orators, of the existence of said pretended deed of January, 1809, and when, and from whom she first learned of the same deed, and why she did not earlier apprise your orators of its existence, and of her claim under the same; whether the said pretended deed was ever recorded, or in any manner publicly known in the county of Washington, in whose possession the same has been from its date, until it was exhibited to your orators, and when that was done; whether the said Richard Bland Lee, during his life time, ever did sell, or otherwise dispose of any of the property included in the same; and whether such disposition was made with the consent of the said Elizabeth or of the said trustees, or either of them, and which of them, and how was such consent given or evidenced; and whether any, or what property was conveyed to the said trustees, or either of them, as a substitute for any part so sold or disposed of; whether the debt therein mentioned, as due to Judge Washington, has ever been paid, and by whom, and from what funds; and that she may produce the said deed before this honorable court, and may make full proof of the execution thereof, and of the truth of the averments and recitals therein contained; and that the said pretended deed may be decreed by this honorable court to be fraudulent, void, and wholly inoperative as against your orators; and that the said Elizabath may be decreed to surrender, yield, and deliver up to your orators and to the said Richard Smith, trustee as aforesaid, all the property of every description mentioned and contained in the said first above mentioned deed to said Smith, and to account for all that has been disposed of, or is in any way deficient; and that she be decreed to be personally responsible as executor in her own wrong, for the whole amount of the debt, interest, and costs, due to your orators for and on account of the said loan of six thousand dollars; and that he, the said Richard Smith, may be ordered and directed to take possession of all the said property so conveyed to him in trust as aforesaid, and to sell and dispose of the same in conformity with his duty and powers under said deed, and to pay over the proceeds thereof to your orators, for and on account of said debt, interest, and costs; and that your orators may have such other and further relief in the premises as may appear to your Honors to be equitable and just.

May it please your Honors, the premises being considered, to grant unto your orators the United States writ of subpœna, to be directed to the said Elizabeth Lee, Edmund J. Lee, and Richard Smith, com-

manding them to be and appear before your Honors in this honorable court, then and there to answer the premises, and further, to do and perform, and abide by such decree as your Honors may think it just and equitable to make in the premises.

RICHARD S. COXE,
Solicitor, and of Counsel with Complainants.

Subpœna.

Whereupon, subpœna issued as prayed, made returnable on the first Monday in September then next.

At which said first Monday of September, in the year eighteen hundred and thirty-four, came into court here the said complainants, by their solicitor aforesaid; and the marshal, to whom the said subpœna was directed, made return thereof to the court here, "Summoned Rd. Smith, N. E. the rest."

Whereupon, subpœnas were renewed, and the cause regularly continued at rules until the first Monday in November next; when the marshal, to whom the subpœnas were directed, made the following return: "Summoned Elizabeth, N. E. E. J. Lee."

Whereupon, subpœna was renewed, and the cause regularly continued at rules to the first Monday in January, in the year eighteen hundred and thirty-five, when the marshal made the following return: "Summoned Edmund J. Lee."

Whereupon, the said defendants being so forewarned, appear in court here, by John Marbury, Esquire, their solicitor, and thereupon, the said cause was regularly continued at rules until the first Monday in June, in the year eighteen hundred and thirty-six, when Edmund J. Lee and Elizabeth Lee filed in court here the following answers and exhibits:

E. J. Lee's Answer.

The separate answer of Edmund J. Lee to the bill of complaint filed in the circuit court of the District of Columbia, for the county of Washington, by the President, Directors, and Company of the Bank of the United States against Elizabeth Lee, this defendant, and Richard Smith. This defendant, now, and at all times hereafter; reserving and saving to himself all and all manner of exception to the uncertainties, imperfections, errors, and untruths, in the complainants said bill contained, for answer thereto, or to so much thereof as he is advised, it is material for him to answer unto, he answereth and saith:

That it is true, that Richard B. Lee in the bill mentioned, did duly make and execute a deed of trust for the benefit of his wife, the said Elizabeth Lee, in the said bill named, dated the 9th day of January, 1809, to this defendant, William Maffett and Richard Coleman, both of whom are dead; that the said deed sets forth the true consideration of the same. This defendant recollects that the said Richard B. Lee did make and execute a deed (in which his wife,

330.

the said Elizabeth Lee joined him) to Ludwell Lee, of the county of Loudoun, since deceased, by which he sold and conveyed the fee-estate of him, the said R. B. Lee, to an undivided portion of eight thousand acres of land, in the county of Spotsylvania, and State of Virginia, commonly called the Mine Tract, and situate about fifteen miles from the town of Fredericksburg. What has become of this deed this defendant knows not; he presumes the said Ludwell Lee had it. This defendant cannot state, from general recollection, how the debt due Judge Washington was paid; it is his impression that it was paid, either by the stock of the Bank of Alexandria, which belonged to the said Elizabeth Lee, and was held in trust for her by her brother, Zacheus Collins, deceased, or by a sale of part of the farm, called Langley.

This defendant further answering, states, that the trustees never had possession of any of the property mentioned in the deed of trust to them, dated 9th January, 1809, such possession would have been inconsistant with the terms of the deed; but that they exercised authority whenever they received information that any attempt was made to execute and sell any portion of it for the debts of R. B. Lee, (as will appear by the annexed notice No. 1, dated 22d April, 1813, as a part of this answer, signed by all the trustees,) Richard Ratcliffe, then sheriff of Fairfax county, and which he received 26th April, 1813, as appears by an endorsement on the same, in his, the said Richard Ratcliff's handwriting. This respondent, on the same day, gave a like notice to the said sheriff's, prohibiting the sale of Peter, one of the negroes, mentioned in the said deed of trust, a copy of which (No. 2) is hereunto annexed as a part of this answer. This defendant has been informed, and doth verily believe, that the said negro, Peter, died some time ago, previous to which, he had been emancipated by Elizabeth Lee, as this defendant is informed. This defendant has no other knowledge of what has become of the residue of the said negroes, than is stated in the answer of the defendant, Elizabeth Lee, and as is hereafter stated, as to five of them; he did not consent to, or know of any sale being made by the said Richard B. Lee and Elizabeth Lee, or either of them, other than of the following ones: The said Richard B. Lee did, with the assent of two of the trustees, in virtue of the authority and right reserved to him, under the said deed of trust of the 9th of January, 1809, sell and dispose of five of the negroes mentioned in the deed of trust, to wit: Letty and her three children, William, Alfred, and Alexander, and Milly, for whom he substituted other property by deeds of trust to the same trustees, the one dated 13th of July, 1818, and the other 5th July, 1819, both duly recorded in the clerk's office of the circuit court of the District of Columbia, for the county of Washington, the originals of which are hereto annexed, Nos. 3 and 4.

This defendant admits, that he gave no notice to the complainants of the existence of the deed of trust of 9th January, 1811, to himself, William Maffitt, and Richard Coleman. He further states that he did not know, until shortly before the death of Richard B. Lee, that he had made a deed of trust to the Bank of the United States for the

slaves and furniture; that the several deeds of trust given to the bank by the said R. B. Lee, were not given in consequence of a requisition of this defendant, or with the previous knowledge of his intention to give them; he presumes they were given at the request of the President and Directors of the Bank of Washington.

This defendant has seen a deed of trust given in the year 1825 to Richard Smith, by the said Richard B. Lee (and referred to in the answer of the defendant, Elizabeth Lee) for the purpose of further securing the debt, now *sought* to be changed upon the property claimed by the defendant, Elizabeth Lee, the legal title of which is in this defendant. He is advised that this last deed is an abandonment of all lien which the Bank of the United States ever had, by virtue of the deeds of trust of June, 1817, to Richard Smith, on the property conveyed by the deed of the 9th of January, 1811, to this defendant, William Moffitt and Richard Coleman.

This defendant has answered, as fully as he is able, to the various allegations of the complainant's bill. He denies all combination, fraud, so forth; and prays hence to be dismissed with his reasonable costs.

ED. J. LEE.

DISTRICT OF COLUMBIA, *County of Alexandria, sct.*

Edmd. J. Lee appeared before me, the subscriber, a justice of the peace, for the county aforesaid, and made oath that the several matters set forth in the foregoing answer, by him signed, such as are therein stated of his own knowledge, are true, and such as are stated therein, to be of the knowledge of others, he believes to be true.

Given under my hand the 8th day of April, 1836.

NEWTON KERNE.

Exhibits referred to in the answer marked No. 1.

Exhibits referred to in Lee's Answer.

RICHARD RATCLIFF, Esq.,
Sheriff of Fairfax County.

SIR: Having been informed that you have levied an execution on the following slaves, as the property of Richard Bland Lee, namely: Letty and child, Patty, Betty, young woman, and Henry, a boy about fourteen, Alech, a boy about fifteen, Charles and Alfred, boys about twelve years old. We, the undersigned, trustees for the benefit of Elizabeth Lee, wife of Richard Bland Lee, do hereby notify you that the above named slaves were conveyed to us by the said Richard Bland Lee, by deed bearing date on the 9th day of January, in the year one thousand eight hundred and nine, and recorded in Fairfax county court in August following, for the sole use of the said Elizabeth Lee, in lieu of her right, title, and interest in several valuable

landed estates, which have since been sold to discharge the debts of the said Richard Bland Lee. We do, therefore, prohibit you, at your peril, to proceed in the sale of the said slaves by virtue of the execution now levied on them, or by virtue of any other execution which may come into your hands. As witness our hands, this 22nd day of April, in the year of our Lord one thousand eight hundred and thirteen.

EDM. J. LEE,
RICHARD COLEMAN,
WILLIAM MAFFITT.

(EXHIBIT No. 2.)

RICHARD RATCLIFF, Esq.,
Sheriff of Fairfax County.

SIR: Having been informed that you have levied an execution on a man slave, named Peter, as the property of Richard Bland Lee, this is to notify you that I hold a bill of sale for the said slave, Peter, from the late Nicholas Peers, and that by my permission only, he remains in possession of the said Richard Bland Lee; having agreed with the said Richard Bland Lee, that whenever he shall pay me a certain sum of money, I will then, and not till then, convey to him the title vested in me. You are, therefore, prohibited, at your peril, from proceeding to sell the said slave, Peter, by virtue of the said execution, or of any other execution which may come into your hands against the said Richard Bland Lee. As witness my hand, this 22nd day of April, 1813.

EDM. J. LEE.

(No. 2.)

RICHARD RATCLIFF, Esq.,
Sheriff of Fairfax County.

SIR: Having been informed that you have levied an execution on certain horses, cattle, wagons, and a cart, as the property of Richard Bland Lee, namely, twelve horses, nine cows, and eight calves, two wagons, and a cart, we, the undersigned, trustees for the benefit of Elizabeth Lee, wife of Richard Bland Lee, do hereby notify you that the above described property was conveyed to us by the said Richard Bland Lee, by deed bearing date on the 6th day of July, in the year of our Lord one thousand eight hundred and eleven, and duly recorded in the office of the general court of Virginia, in trust, to be sold with other property, real and personal, to secure the payment of ten thousand dollars due to the said Elizabeth Lee, the proceeds of the sale of her own private property, lent to the said Richard Bland Lee. We, therefore, prohibit you, at your peril, to proceed in the sale of the said horses, cattle, wagons, and cart, by virtue of the execution now levied on them, or by virtue of any other execu-

tion which may come into your hands. As witness our hands this 22nd day of April, in the year 1813.

EDM. J. LEE,
W. JONES, Jr.

(Exh. No. 3.)

Deed referred to in Lee's Answer.

This indenture made this ninth day of January, in the year of our Lord one thousand eight hundred and nine, between Richard Bland Lee, of the county of Fairfax and Commonwealth of Virginia, of the one part, and Edmund J. Lee, of the town of Alexandria and District of Columbia, Revd. William Moffit and Richard Coleman, of the said county of Fairfax and Commonwealth aforesaid, of the other part; whereas Elizabeth Lee, wife of the said Richard Bland Lee, hath, on the day of the date of these presents, consented to and executed a deed to Ludwell Lee, Esq., of the county of Loudoun, relinquishing her right of dower in and to a certain tract of land lying in the county of Spottsylvania, on the river Rappohonnoch and Commonwealth aforesaid, containing eight thousand acres, be the same more or less, to dower in five undivided rights of the said tract, the said Elizabeth was entitled; and whereas the said Richard Bland Lee hath agreed, and is desirous of fully indemnifying the said Elizabeth for her said dower so relinquished; and whereas the said Elizabeth hath also, on the day of the date of these presents, executed a deed of trust to Henry Smith Turner, of Jefferson county, Thomas Blackburn, of Fairfax county, and Bushrod Washington, Junr., of Westmoreland county, jointly with her said husband, Richard Bland Lee, conveying to the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, Jun. two certain tracts or parcels of land, situate, lying, and being in the said county of Fairfax; one situate on the river Potomack, near the Little Falls thereof, containing sixteen hundred acres, be the same more or less, and the other being the estate whereon the said Richard Bland Lee now resides, containing five hundred and thirty acres, be the same more or less; which said tracts of land are particularly described in the said deed of trust; and which tracts are conveyed to the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, Junr., for the purpose of securing the payment by the said Richard Bland Lee, his heirs, executors, or administrators, the just and full sum of ten thousand thirty-four dollars and twenty-eight cents, in the manner specified in the said deed of trust, and at the time therein expressed, to the honorable Bushrod Washington, one of the judges of the Supreme Court of the United States; and whereas the said Richard Bland Lee has agreed, and is desirous of indemnifying the said Elizabeth his wife, for joining in the said deed of trust.

Now this indenture witnesseth, that for and in consideration of the premises, and in further consideration of the sum of five dollars lawful money of Virginia, to him, the said Richard Bland Lee, in

532

hand paid by the said Edmund J. Lee, William Maffit, and Richard Coleman, the receipt whereof the said Richard Bland Lee doth hereby acknowledge, hath bargained and sold, and by these presents doth bargain and sell unto the said Edmund J. Lee, William Maffitt, and Richard Coleman, and to the survivers or surviver of them, and to the executors or administrators of the last surviver of them, all his household and kitchen furniture, consisting of beds, bedsteads, bed furniture, plate, china ware, glass, tables, chairs, table linen, carpets, sideboards, beaufitts, wardrobes, and every kind and species of furniture now in the house and kitchen of the said Richard Bland Lee, and estimated to be worth sixteen hundred dollars; also the following slaves, namely, John and his wife Alice and their children, Patty, Betty, Henry, Charles, John, Margaret, Milly, and Frank Ludwell and his wife Nancy and their children, Caroline, Harriet, Frederick, Ludwell, and Barbara, Henny and her child Eleanor, Rachel and her child Rachel, two sisters, Kitty and Letty and their brothers, Alexander and Alfred, and the following men: George, a blacksmith, Harry, a carpenter, Henry Butler, a wagoner, Tom, a carter, Thornton, a cook, and Samuel, a smith, and Jack, a plow boy: To have and to hold all the above described furniture, and the above named slaves, unto them, with their increase, unto them, the said Edmund J. Lee, William Maffit, and Richard Coleman, and the survivers or surviver of them, or the executors or administrators of the last surviver, in trust for the following uses, and upon the following condition, that is to say, for the use of the said Elizabeth Lee during her natural life, and after her death, to pass to her heirs, as the law may direct, provided she dies intestate, or to such persons as she may bequeath the same by her last will and testament, provided she shall make one the said property to pass fully and completely, and without limitation or condition, to her heirs or legatees.

Provided, always, that the said Richard Bland Lee may, at any time during his life, sell, or otherwise dispose of any part of the above property, furniture, or slaves, with the consent of a majority of the said trustees, or of the survivers or surviver of the executors or administrators of the last surviver, provided he, the said Richard Bland Lee, shall convey to the said trustees, or the survivers or surviver, or to the executors or administrators of the last surviver, other property, either real or personal, to the full value of the said furniture or slaves so sold or otherwise disposed of: And provided, further, that whenever the said Richard Bland Lee shall fully pay and discharge the debt intended to be paid to Judge Washington, without selling any part of the property conveyed in trust to Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, Junr., which is now held by the said Elizabeth Lee in her own proper right, then this indenture, so far as it relates to the following slaves, namely, Ludwell Thornton, Henry Butler, Tom, Samuel, Jack, and Eleanor, shall be null, void, and of no effect in law or equity.

In testimony of the premises, the said Richard Bland Lee, and the said Edmund J. Lee, William Maffit, and Richard Coleman, have

hereunto affixed their hands and seals the day and year herein first above written.

RICHD. B. LEE, [SEAL.]
EDM. J. LEE, [SEAL.]
WM. MAFFIT, [SEAL.]
RICHD. COLEMAN. [SEAL.]

Signed, sealed, and delivered in the presence of us:

JOHN COLEMAN, } R. B. Lee and
STEPHEN DANIEL, } Richard Coleman.
THO. R. MOTT,
GID. M. MOSS to R. } B. Lee and E. J. Lee.
SANFORD PAYNE, }

At a court held for Fairfax county, the 17th day of July, 1809, this deed from Richard Bland Lee to Edmund J. Lee, William Maffett, and Richard Coleman, in trust for the use of Elizabeth Lee, wife of the said Richard Bland Lee, was acknowledged by the said Richard Bland Lee, and ordered to be certified. And at a court held for the said county of Fairfax, the 21st day of August, 1809, this deed was further acknowledged by the said Edmund J. Lee, William Maffitt, and Richard Coleman, and ordered to be recorded.

Recorded,

Teste: WILLIAM MOSS, *C'k.*

(EXHIBIT 3.)

Deed.

This indenture made this thirteenth day of July, in the year of our Lord one thousand eight hundred and eighteen, between Richard Bland Lee, now of the city of Washington and District of Columbia, of the one part, and Edmund J. Lee, of the town of Alexandria and District aforesaid, William Maffitt, and Richard Coleman, of the county of Fairfax, and State of Virginia, of the other part, witnesseth: that whereas the above named Richard Bland Lee did, by a certain deed of indenture, bearing date on the ninth day of January, in the year of our Lord one thousand eight hundred and nine, which will more fully appear by reference to the same, now on record in the office of the clerk for the county of Fairfax, in the State of Virginia, convey, amongst other property, furniture, and slaves, therein enumerated and described, a certain female coloured slave, named Letty, with her increase, unto the said Edmund J. Lee, William Maffitt, and Richard Coleman, and the survivers or surviver of them, and the executors or administrators of the last surviver, in trust for the following uses, and on the following conditions, namely, for the use of Elizabeth Lee, wife of the said Richard Bland Lee, during her natural life, and after her death to pass to her heirs as the law may direct, provided she dies intestate, or to such persons as she may bequeath

the same by her last will and testament, provided she shall make one, the said property to pass fully, and without limitation, to her heirs or legatees: Provided, always, that the said Richard Bland Lee may, at any time during his life, sell, or otherwise dispose of any of the above property, furniture, or slaves, with the consent of a majority of the said trustees, or of the survivers or surviver of them, or the executors or administrators of the last surviver; provided he, the said Richard Bland Lee, shall convey to the said trustees, or the survivers or surviver of them, or the executors or administrators of the last surviver, other property, either real or personal, to the full value of the said furniture or slaves, to hold, or otherwise disposed of; and whereas the said Richard Bland Lee, pursuant to the power to him reserved, hath sold to General Daniel Parker, of the city of Washington and District of Columbia, with the consent of a majority of the before mentioned trustees, namely,———and ———whose consent in writing is hereto annexed, the above named coloured slave, Letty and her three children, namely, William, aged about six years, Alfred, aged about four years, and Alexander, or Alich, aged about four months, for eight hundred and fifty dollars lawful money of the United States. Now, this indenture witnesseth, that he, the said Richard Bland Lee, by virtue of the said power referred to him in the before mentioned deed of trust, and in further consideration of five dollars, to him in hand paid by the said Edmund J. Lee, William Maffitt, and Richard Coleman, the receipt whereof he doth hereby acknowledge, hath granted, bargained, and sold, and by these presents doth grant, bargain, and sell unto the said Edmund J. Lee, William Maffitt, and Richard Coleman, the survivers or surviver of them, and the executors or administrators of the last surviver, a certain new plated coachee, with new plated harness, and an elegant pair of young brown horses, of the full value of eight hundred and fifty dollars, recently purchased in the city of Philadelphia: to have and to hold the said coachee, harness, and pair of horses, in lieu of the said Letty and her three children, above described, in trust for the same uses and subject, to the same conditions as are fully expressed in the said before mentioned deed of trust, bearing date on the ninth day of January, in the year of our Lord one thousand eight hundred and nine, and duly recorded in the office of the clerk of the county of Fairfax, in the State of Virginia. In testimony of the premises, he, the said Richard Bland Lee, hath to these presents set his hand and seal the day and year herein before first above written.

RICHARD BLAND LEE. [SEAL.]

Signed, sealed, and delivered in presence of:

BENJAMIN MORE,
DANIEL RAPINE.

In consideration of the execution of the above deed, we, two of the within named trustees, do hereby grant our consent to the above

mentioned sale of Letty and her three children, mentioned in the same, to the aforesaid Genl. Daniel Parker.

Witness our hands and seals, this eighteenth day of July, in the year 1818.

EDM. J. LEE, [SEAL.]
RICHARD COLEMAN. [SEAL.]

Witness as to
MR. E. J. LEE,
WM. H. FITZHUGH,
CHS. RATCLIFF as to
R. COLEMAN,
C. CALVERT STUART,
BENJN. T. HIGGS, as to
R. COLEMAN.

On this 13th day of July, 1818, before us, two of the justices of the peace for Washington county, in the District of Columbia, personally appeared Richard B. Lee, Esqr., and acknowledged the above and foregoing instrument of writing to be his act and deed, for the purposes therein mentioned.

DANL. RAPINE,
BENJAMIN MORE.

(Ex. No. 4.)

Deed referred to in Lee's Answer.

This indenture made on this fifth day of June, in the year of our Lord one thousand eight hundred and nineteen, between Richard Bland Lee, of the city of Washington and District of Columbia, of the one part, and Edmund J. Lee, of the town of Alexandria and District aforesaid, and William Maffitt, and Richard Coleman, of the county of Fairfax, and State of Virginia, of the other part, witnesseth: that whereas the abobe named Richard Bland Lee did, by a certain deed of indenture bearing date on the ninth day of January, in the year of our Lord one thousand eight hundred and nine, which will more fully appear by reference to the same, now on record in the office of the clerk for the said county of Fairfax, in the said State of Virginia, convey, amongst other property, furniture, and slaves, therein enumerated and described, a certain female coloured girl slave, named Milly, with her increase, unto the said Edmund J. Lee, William Moffitt, and Richard Coleman, and the survivers or surviver of them, or the executors or administrators of the last surviver, for the following uses, and on the following conditions, namely: for the use of Elizabeth Lee, wife of the said Richard Bland Lee, during her natural life; and after her death to pass to her heirs as the law may direct; provided she dies intestate, or to such persons as she may bequeath the same by her last will and testament; provided she shall make one, the said property to pass fully, and without limi-

534.

tation to her heirs or legatees: Provided, always, that the said Richard Bland Lee may, at any time during his life, sell or dispose of any of the above property, furniture, or slaves, with the consent of a majority of the said trustees, or of the survivers or surviver of them, or of the executors or administrators of the last surviver; provided the said Richard Bland Lee shall convey to the said trustees or the survivers or surviver of them, or the executors or administrators of the last surviver, other property, either real or personal, to the full value of the said furniture or slaves so sold, or otherwise disposed of; and whereas the said Richard Bland Lee, pursuant to the said power to *to* him referred, hath sold to a certain John P. Van Ness, of the city of Washington and District aforesaid, the above mentioned coloured slave girl, Milly, with her increase, with the consent of a majority of the before mentioned trustees namely, the said Edmund J. Lee and the said William Maffitt, whose consent, in writing, is hereto annexed, for the sum of three hundred dollars. Now, this indenture witnesseth, that he, the said Richard Bland Lee, by virtue of the power to him referred in the before mentioned deed of trust, and in consideration of five dollars, to him in hand paid by the said Edmund J. Lee, William Moffitt, and Richard Coleman, the receipt whereof he doth hereby acknowledge, hath bargained and sold, and by these presents doth bargain and sell unto them, the said Edmund J. Lee, William Moffitt, and Richard Coleman, the survivers or surviver of them, and the executors or administrators of the last surviver, the following pieces of furniture: a certain piano forte, of the make of Brood, Wood, & Sons, of superior quality, which cost two hundred dollars, and a certain block for the mantle, of superior quality, which cost one hundred dollars, making, in value, the full sum of three hundred dollars: To have and to hold the said piano forte and the said clock in lieu of the said coloured girl Milly, and her increase, in trust for the same uses and subject, to the same conditions as are expressed in the before mentioned deed of trust, bearing date on the ninth day of January, in the year of our Lord one thousand eight hundred and nine. In testimony of the premises the said Richard Bland Lee hath to these presents set his hand and seal the day year herein before first above written.

RICHARD BLAND LEE. [SEAL.]

Signed, sealed, and delivered in the presence of us:
JAMES M. VARNUM,
J. F. CALDWELL.

DISTRICT OF COLUMBIA, *County of Washington, to wit:*

This eighth day of June, one thousand eight hundred and nineteen, personally appeared before me, one of the justices of the peace for the said county and District, Richard Bland Lee, and acknowledged the above indenture to be his act and deed for the purposes therein mentioned.

JAMES M. VARNUM.

The consent of Ed'd J. Lee and Wm. Maffitt to the above conveyance, signed by them, is annexed to this deed.

The Answer of Elizabeth Lee.

The separate answer of Elizabeth Lee to the bill of complaint exhibited against her and others, on the chancery side of the circuit court of the District of Columbia, for the county of Washington, by the President, Directors, and Company of the Bank of the United States.

This respondent, saving to herself the benefit of exception to the many errors, imperfections, and untruths, in the complainant's bill contained, in answer to so much thereof as she is advised is material or necessary for her to answer to, she answers and says, that she believes it to be true that in the year 1817 her husband, Richard B. Lee (since deceased) did apply to the complainant's Office of Discount and Deposite, at Washington, for a loan of a considerable sum of money; and that the complainant's, at their said office, did, in that year, advance to him the sum of six thousand dollars on his note, endorsed by Edmund J. Lee and Walter Jones. But by what representations of his circumstances, or promises, or offers of further security, the President and Directors of the said office were induced to make the said loan, this respondent knows not.

She admits that on or about the 11th day of June, in the same year, the said R. B. Lee did execute and deliver to the said Richard Smith the deed dated on the said 11th day of June, 1817, referred to in the complainant's bill; but she avers that she was ignorant of the execution of the said deed, until long after it had been delivered, and the loan made to the said Richard B. Lee by the President and Directors of the said office, paid over to him, or to his orders. She denies that she ever before, or after, or at the time of the execution of the said deed, consented thereto; and she denies that she ever did, directly or indirectly, waive or relinquish, or agree to waive or relinquish, to the said bank or its trustee, or to any other person, for their use or benefit in any shape, her right to the slaves and other property by the said deed, purported to be conveyed, or to any part thereof. This respondent believes that the complainants have recovered judgment against the said Richard B. Lee in his life time, and against the said Walter Jones for the money loaned as aforesaid, and that the said judgments remain unsatisfied. She admits that the said Richard B. Lee died in the year 1827, in insolvent circumstances, intestate, and that no administration has been taken on his estate.

This respondent further answering, says, that on the 9th day of January, in the year 1809, the said Richard B. Lee and this respondent, then dwelling, and having for a long time before dwelt, in the county of Fairfax, in the State of Virginia, and the slaves and other personal property hereinafter mentioned, then being in the said county, she agreed with the said Richard to relinquish her right of dower in a certain tract of land in the county of Spotsylvania, in the Commonwealth of Virginia, on the Rappahannock river, containing eight

thousand acres, more or less, of five undivided eighth parts, of which the said Richard B. Lee was seized in fee simple, and to join the said Richard in a conveyance thereof to Ludwell Lee. She also, on the same day, agreed to join her said husband in the execution of a deed of trust to Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, Junr., conveying to them two tracts of land in the said county of Fairfax, one situated on the river Potomac, near the Little Falls thereof, containing sixteen hundred acres, more or less. The other being the estate on which the said Richard and this respondent then resided, containing five hundred and thirty acres, more or less, which tracts of land were then held in trust for this respondent, which last mentioned conveyance was to be made to the said Turner and others, in trust to secure the payment of the sum of two thousand and thirty-four dollars and twenty-eight cents; due from the said Richard to the Honorable Bushrod Washington. And in consideration of the execution of the said conveyance, by this respondent, and of her thereby relinquishing her dower in the said Spotsylvania lands, and her right to the said lands in Fairfax, the said Richard on his part, agreed to convey to Edmund J. Lee, William Maffitt, and Richard Coleman, all the household and kitchen furniture, carpeting, beds, bedsteads, bed furniture, plate, China ware, glass, tables, chairs, table linen, carpets, sideboards, bureaus, wardrobes, and all kinds of furniture, then in their said dwelling-house and kitchen, estimated to be worth sixteen hundred dollars; and the following slaves, that is to say: John and his wife Alice and their children, Patty, Betty, Henry, Charles, Johnny, Margaret, Milly, and Frank, Ludwell and his wife Nancy and their children, Caroline, Harriet, Frederick, Ludwell, and Barbara, Henny and her child Eleanor, Rachel and her child Rachel, two sisters Kitty and Letty and their brothers, Alexander and Alfred, George, (a blacksmith,) Harry, a carpenter, Harry, a wagoner, Tom, a carter, Thornton, a cook, Samuel, a smith, and John, a plowboy, to be held by the said E. J. Lee, William Maffitt, and Richard Coleman, and the survivers and surviver of them, and the executors and administrators of such surviver in trust for the use of this respondent, during her life, and after her death, to pass to her heirs at law provided she died intestate, or to such persons as she might bequeath the same to by her last will and testament, so as she should make the same pass fully and completely and without limitation or condition to her heirs or legatees; it was further agreed by the said Richard and this respondent, that the said Richard should be authorized at at any time during his life to sell or otherwise dispose of any part of the said slaves and furniture with the consent of a majority of the said trustees, or of the survivers or surviver of them, or of the executors or administrators, the last surviver, provided the said Richard should convey to the said trustees or to the survivers or surviver, or the executors or administrators of the last surviver, other property, real or personal, to the full value of the said furniture, or slaves so sold or disposed of. And it was further agreed, that if the said Richard should fully pay the said debt to the Honorable Bushrod Washington without selling any part

of the lands, to be conveyed to the said Henry S. Turner and others, in trust as aforesaid, and then held in trust for the said Elizabeth, then that the conveyance to be made as aforesaid, to the said E. J. Lee, William Moffit, and Richard Coleman, should become null and void, as to the slaves Ludwell, Thornton, Henry Butler, Tom, Samuel, Jack, and Eleanor. And the said Elizabeth avers, that in execution of the said agreement, and in consideration of the conveyance by the terms thereof to be made to the said E. J. Lee, William Maffitt, and Richard Coleman, for her use in manner and on the terms aforesaid, she did on the said 16th day of July, 1809, in due form of law, with the said R. B. Lee, execute and deliver to the said Ludwell, a conveyance in fee of the said lands in Spotsylvania, thereby relinquishing her claim of dower therein. And did with the said Richard, in due form of law, on the 9th day of January, 1809, execute and deliver to the said Henry S. Turner, Thomas Blackburn, and Bushrod Washington, jun., a deed for the said lands in Fairfax county, whereby she conveyed her right to the said lands last mentioned to the said Turner and others, in trust to secure the payment of the said debt, due from the said Richard B. Lee to the Honorable Bushrod Washington in the manner provided by the said agreement. And that the said Richard did, on the same day, in execution of the said agreement, on his part, execute and deliver to the said E. J. Lee, William Maffitt, and Richard Coleman, a conveyance, whereby he transferred and conveyed to them the said slaves and furniture before mentioned, to be held in trust for this respondent, in the manner and on the terms before stated, which said deed was duly proved and recorded within eight months from the date thereof, in the county court of the county of Fairfax, in which the said Richard and this respondent continued still to reside, and in which the said slaves and furniture still remained. And this defendant herewith exhibits the said three deed severally, marked, Exhibit No. 1, No. 2, and No. 3. This respondent avers, that the said agreement before mentioned, was made between the said Richard and her; and the said deeds executed in pursuance thereof, fairly and bona fide, without any intention to defeat, defraud, hinder, or delay any creditor of the said Richard. She is advised and insists that they were duly proved and recorded, according to the laws of the State of Virginia, and that under the same she is a bona fide purchaser of the said slaves and furniture according to the terms of the said deed to E. J. Lee and others, and that the said deed fully protects her in the right to the said property conveyed, according to the terms thereof, against all creditors of the said Richard, and all purchasers subsequently to the date thereof. And this respondent has before herewith exhibited as part of her answer to said deed with the certificate of proof and record thereof by the clerk of the county court of Fairfax county, marked exhibit No. 3. This respondent admits that no sale of the Fairfax lands was made under the said deed to Henry S. Turner and others; she therefore makes no claim to the slaves Ludwell, Thornton, Henry Butler, Tom, Samuel, Jack, and Eleanor, that none of the said last mentioned slaves are in her possession or subject to her control, nor

were they so when the complainant issued out their writ of replevin in their bill mentioned, or at the time they instituted this suit.

This respondent further answering says, that the slave George conveyed to the said E. J. Lee and others, was sold by the said R. B. Lee, and the slaves Peter in the complainant's bill mentioned, was purchased by the said Richard B. Lee as a substitute for him, according to the provisions of the said deed to E. J. Lee and others, and was conveyed by one Nicholas Peers, from whom he was purchased to the said E. J. Lee, by deed dated the 2d day of September, 1811, see Exhibit No. 4; and that the said Peter was emancipated by this respondent, and under a full belief that she had a perfect right to do so before the complainants had instituted any proceeding against this respondent for the said slaves; that the slave Alexander in the complainants bill mentioned was sold by the said Richard B. Lee in his life time to Roger C. Weightman, and the slave Henry in the complainants bill mentioned, was sold by the said R. B. Lee in his life time to Colonel Archibald Henderson. And that the slaves Milly, and Letty and her two sons in the bill mentioned, were sold by the said Richard B. Lee in his life time, Milly to General Van Ness, and Letty and her two sons to Daniel Parker; that nothing has been substituted for any of these slaves, except for George as is before stated; (and for Letty and her children that they were sold by the said R. B Lee, with the consent of E. J. Lee and William Maffit, two of the said trustees, on or about the 5th day of June, 1819; and certain articles of furniture conveyed to the said E. J. Lee, William Maffitt, and Richard Coleman, in substitution for them, an account of which is annexed by way of memorandum to schedule No. 1, hereinafter referred to,) for Milly there was also certain articles of furniture substituted by a deed to said trustees, on the 13th July, 1818, see memorandum to schedule, see Exhibits Nos. 5 and 6. That the slaves, John, Kitty, Frank, Caroline, and Harriet, are in the possession of this respondent, claiming them under the said deed to E. J. Lee and others; that the said household and kitchen furniture and plate, conveyed to the said E. J. Lee and others, for the use of this respondent, a great portion has been necessarily destroyed in the use during a period of twenty-six years.

That this respondent annexes hereto a schedule, marked No. 7, of so much thereof as now remains in her hands, at the time of the institution of this suit, that as to the slaves named in the second proviso or defeazance in the said deed to E. J. Lee and others for this respondent's use, she makes no claim, that none of them are in her possession or subject to her power or control, nor were any of them conveyed to the said Richard Smith, that she has before rendered an account to the best of her knowledge of all the slaves to which the complainants have any pretence of title under the said deed to Richard Smith, and for the other slaves conveyed to her trustees for her use as aforesaid, she holds herself not bound to account for to the complainants.

This respondent admits, that the complainants did sue out from the common law side of your court, a writ of replevin for certain of

the slaves conveyed to her trustees as aforesaid, and named in the said deed, from the said Richard B. Lee to Richard Smith, and she now holds the same, subject to the decision of your Honors on the respective rights of the complainants and herself. She admits, that the said Richard B. Lee was considerably indebted when he made the said deed for her use to the said E. J. Lee and others. But she denies that the said deed is to be considered in law as a voluntary conveyance, and avers that the inducement of the said R. B. Lee, to make the said deed and the arrangement under which it was made was to procure the means of discharging a portion of the said debts. She denies that she ever did conceal her title and claims to the said slaves, furniture, and plate, conveyed to her said trustees for her use as aforesaid, or that by any act of hers, or by any culpable silence on her part, she ever did induce or suffer the complainants, or any other persons to purchase or receive a conveyance of the same, or any part thereof, from the said Richard B. Lee. She avers that the relation of husband and wife, continued between her and the said Richard B. Lee, until his death in 1827, during which time they lived together, this respondent having no separate establishment; her possession of the said slaves and furniture under their circumstances could not be separated from that of the said Richard B. Lee; she had no motive to prohibit him from using the said slaves, or applying their hire to the joint support of the said Richard and herself, and of their children. She admits that some of the said slaves were sold by the said Richard, under the pressure of great necessity without her consent, or that of her trustees; but she denies that her submission under these circumstances to such violations of her rights implied an assent to all future inroads upon them. She admits that the said deed to E. J. Lee and others for her use, never was recorded in the county of Washington, to which county she removed with the said R. B. Lee and their family in the year 1811. But she denies that there is any law, requiring such record to be made, or defeating a title legally acquired in Virginia by its omission. She avers that the said E. J. Lee, William Maffitt, and Richard Coleman, did accept of the said conveyance in trust for her benefit, and did execute the same. She avers that they did act under it, and did protect the property conveyed from being taken from the possession of this respondent, when apprised of any attempt to do so. That it never was intended that the said slaves and furniture should go into the possession or management of the said trustees, and that the conveyance to them does not require any such construction. That the possession and use of the said Richard B. Lee, under the circumstances before stated, was consistent with the rights of this respondent, and his violation of the confidence reposed in him by this respondent and her trustees by an authorized sales of some of the said slaves could not. She is advised impair her rights to the rest, nor could the omission of her trustees to prosecute to their claims for the slaves sold, forfeit this respondent's right to them, who might not have had notice of such sales. To such of the special interrogatories propounded by the complainants as have not been fully heretofore answered, this

537.

respondent in answer says, that at the time the said loan was made by the complainants to the said R. B. Lee, she was not informed that it was intended to be secured, or was secured by the said deed to Richard Smith, that she was not informed that such security had been given until a long time afterwards, but she cannot recollect the time at which such information was first received, that in addition to the said deed, this respondent has since been informed, that further security was given to the complainants for the said debt by a deed of the same date from Overton Carr and R. B. Lee to the said Richard Smith, conveying certain lots in the city of Washington. That he moreover transferred for the same purpose to the said Richard Smith a debt due to him from one John Hopkins; and further by deed of the 16th day of June, 1825, to which this respondent was a party, conveyed to the said Richard Smith a part of the said tract of land, near the Little Falls of Potomac, called Langley. That she has understood that the money loaned by the complainants as aforesaid to the said Richard B. Lee, or some part of it was applied towards the purchase and improvement of the property conveyed by the said Carr and Lee as aforesaid to the said Richard Smith; that she has no knowledge that any information was given to the complainants or the said Richard Smith, at the times the said securities were given, that the said R. B. Lee had executed any previous deed of the property mentioned in said deeds, or given in any previous lien thereon, or on any part of it. That if the property purported to be conveyed by the said Richard B. Lee to the said Richard Smith by the deed first before mentioned, the said Richard B. Lee was in possession under the circumstances before stated, in right of this respondent at the time he made the said deed of the following slaves named therein, that is to say: And of so much of the household and kitchen furniture and plate, as then remained unconsumed in the use. A more particular account of which this respondent cannot give than is contained in schedule No. 7, before referred to, that he had a similar possession with the consent of this respondent from the date of the said conveyance to E. J. Lee and others, and with the knowledge of the said trustees. And that the said R. B. Lee retained possession until his death, in the same manner of such of the said slaves as were not sold as before stated, and of the furniture and plate mentioned in schedule No. 7. In what light his said possession was regarded by the public, it is not for this respondent to decide. Those who traded with him for the said property or trusted him on that account were bound as this respondent is advised to inquire into his title, or take it at their own risk, that the purchase money or other consideration of the slaves sold by the said Richard B. Lee as aforesaid, was received by him; how it was applied, this respondent is not informed, but she believes it was used in payment of his debts, or in the support and maintainance of his family. This respondent knows not in whose name the said slaves and other property mentioned in the said deed to Richard Smith were assessed to, and before and since the date of the said deed, the taxes to the death of the said R. B. Lee were, she presumes, paid by him, he having the management of the

said slaves and other property in right of this respondent. This respondent has already stated, that the said R. B. Lee was considerably indebted on the 9th day of January, 1809, he remained considerably indebted till his death. But this respondent does not know the names of his creditors, or the amount of his debts. That this respondent has not since the death of the said Richard B. Lee, sold or disposed of any of the slaves or other property, purported to be conveyed, or to have been conveyed to the said Richard Smith as aforesaid, except the said slave, named Peter, who was emancipated as before stated. That the slaves named in the said writ of replevin, are part of the said slaves named in the said deed to Richard Smith, and that she has agreed to retain them to be subject to the decision of this court.

That she asserted her right to the slaves conveyed to her trustees as aforesaid, and afterwards to the said Richard Smith, as soon as she was informed of the attempt of the complainants to attain possession thereof, under the deed to the said Smith. That she disclosed the grounds on which she made her claim, and that she was apprised of the said deed to her trustees, when it was made on the 9th day of January, 1809, under her said agreement with the said Richard B. Lee before mentioned. That the said deed remained for a long time in the hands of the said William Maffitt, one of her trustees, and was in his hands in the year 1813; it afterwards was delivered by him, as this respondent presumes, to the said R. B. Lee, but when or under what circumstances, she knows not. That the said debt to the Honorable Bushrod Washington has been paid, but how paid and out of what funds, this respondent is ignorant. This respondent denies all fraud, combination, and concealment, and prays to be hence dismissed with costs, &c.

JNO. MARBURY,
for the Defendant E. J. Lee.

DISTRICT OF COLUMBIA, *County of Washington, sct.*

Elizabeth Lee, the respondent in the preceding answer, appeared before me, the subscriber, a justice of the peace, for the county of Washington and District aforesaid, and made oath that the several matters and things set forth in the answer aforesaid, such as are therein stated to be of her own knowledge, are true; and such as are therein stated, to be of the knowledge of others, she believes to be true.

Given under my hand this 4th day of June, in the year eighteen hundred and thirty-six.

W. THOMPSON, *J. P.* [SEAL.]

Deed referred to in E. Lee's Answer.

EXHIBIT No. 1.

This indenture made this sixteenth day of July, in the year of our Lord one thousand eight hundred and nine, between Richard Bland

Lee and Elizabeth his wife, of the one part, and Ludwell Lee, of the other part; witnesseth: that the said Richard Bland Lee for and in consideration of the said Ludwell Lee's making a conveyance of four thousand two hundred and thirty-one acres of the tract of land, commonly known by the name of the Union tract, lying in Spotsylvania county, to Edmund Jennings Lee, which tract of land was purchased for the use of the said Richard Bland Lee, Ludwell, and Edmund Jenning's Lee, but the fee simple title made to the said Richard Bland Lee, by the commissioners appointed by the county court of Spotsylvania for the sale thereof, as by reference to the records of said court will more fully appear. And in consideration also of the said Ludwell Lee's paying all the joint obligations which have been entered into by the said Richard Bland Lee and Ludwell Lee, for the purchase of the said tract of land, have granted, bargained, and sold, aliened, released, confirmed, and conveyed, and by these presents do grant, bargain, and sell, alien, release, confirm, and convey unto the said Ludwell Lee and his heirs and assigns for ever, all the remainder of the said tract of land, commonly called the Union tract, except so much thereof as has been conveyed and allotted to Messrs. Wilson, Potts, and Auld, as their part or portion of the said tract, together with all appurtenances, rights, issues, and profits, ores, waters, minerals, and commodities whatsoever thereto belonging or in any wise appertaining: To have and to hold the said remaining part of the said tract of land, with all and singular its appurtenances to the said Ludwell Lee, his heirs and assigns, to the only proper use and behoof of him, the said Ludwell Lee, his heirs and assigns, for ever. And the said Richard Bland Lee and Elizabeth his wife, for themselves, and each of their heirs, executors, and administrators, do covenant, grant, and agree, to and with the said Ludwell Lee, his heirs and assigns, that they, the said Richard Bland Lee and Elizabeth his wife, will for ever acquit, discharge, release, and exonerate the said Ludwell Lee, his heirs and assigns, of and from all trusts, engagements, or uses of any other or former deed, made by the said Richard B. Lee to the said Ludwell, for the said mine tract, other than those mentioned as above, as the consideration of this present indenture. And, also, that the said Ludwell Lee, his heirs and assigns, shall for ever hold, occupy, and possess the said remaining part of the said tract of land in his and their own right in fee simple, free and clear, and freely and clearly, exonerated, released, and discharged from all uses, trusts, or engagements whatsoever had made, suffered, or done by the said Richard B. Lee or Elizabeth his wife. And, also, that they, the said Richard Bland Lee and Elizabeth his wife, will, at the proper cost and charges of the said Ludwell Lee, his heirs and assigns, make and execute at any time thereafter, when called on for that purpose, any other good and sufficient deed in fee simple, with special warranty for the purpose of more fully conveying and assuring the said remain g part of the said mine tract to the said Ludwell Lee, his heirs and assigns, as by counsel learned in the law shall be advised, or required to be made and executed. And lastly, the said Richard B. Lee and Elizabeth his wife,

the said remaining part of the said tract of land, called the Mine Tract, with all and singular its appurtenances unto the said Ludwell Lee, his heirs and assigns, against the claim or claims of the said Richard B. Lee and Elizabeth his wife, and of all and every person claiming or to claim, by, through, from, or under them, or either of them, will for ever warrant and defend by these presents.

In witness whereof, the said Richard B. Lee and Elizabeth his wife, have hereunto set their hands and seals, the day and year first above written.

RICHARD BLAND LEE, [SEAL.]
ELIZABETH LEE. [SEAL.]

At a court held for Fairfax county, the 17th day of July, 1809, this deed from Richard B. Lee and Elizabeth his wife to Ludwell Lee, was acknowledged by the said Richard B. Lee to be his act and deed, and ordered to be certified to the county court of Spotsylvania for record.

Teste: WM. MOSS, *C. F. C.*

The Commonwealth of Virginia to David Stewart, Richard Coleman, and John Coleman, Justices of the Peace, Gentlemen, greeting:

Whereas Richard Bland Lee and Elizabeth his wife, by their certain indenture of bargain and sale, bearing date the 16th day of July, 1809, have sold and conveyed unto Ludwell Lee, certain parts of a tract of land, lying and being in the county of Spotsylvania, called the Mine Tract; and whereas the said Elizabeth cannot conveniently travel to our said county court of Spotsylvania, to make acknowledgment of the said conveyance; therefore, we do give unto you, or any two or more of you, power to receive the acknowledgment which she, the said Elizabeth shall be willing to make before you of the conveyance aforesaid, contained in the said indenture, which is hereunto annexed. And we do therefore command you, that you do personally go to the said Elizabeth, and receive her acknowledgment of the same, and examine her privately and apart from the said Richard Bland Lee, her husband, whether she doth the same freely and voluntarily without his persuasions and threats, and whether she be willing that the same should be recorded in our said county court of Spotsylvania aforesaid. And when you have received her acknowledgment, examined her as aforesaid, that you distinctly and openly certify us thereof in our said county court under your seals, sending then there the said indenture and this writ.

Witness , clerk of our said county court, the 17th day of July, 1809, and in the year of the Commonwealth.

ROBERT S. CHEW.

FAIRFAX COUNTY, *sct.*

In obedience to the within dedimus to us directed, we, the subscribers, have examined the said Elizabeth, wife of the within named

Richard Bland Lee, privately and apart from said husband, touching her consent to the acknowledgment of the within mentioned deed hereto annexed, who confessed to us that she executed the same freely and voluntarily without the threats or persuasions of her said husband, and that she was willing that the same should be made of record in the county court of Spotsylvania.

In witness whereof, we have hereunto set our hands and seals, this 21st day of August, 1809.

R. COLEMAN, [SEAL.]
JOHN COLEMAN. [SEAL.]

At a court held for Spotsylvania county, the 2d day of October, 1809, this indenture for land from Richard B. Lee to Ludwell Lee, with the certificate of the acknowledgment thereof, before the court of Fairfax county, and together with the commission annexed, and certificate of the execution thereof by the said Elizabeth, endorsed, are, on motion, admitted to record.

Test: ROBERT S. CHEW, *Clerk.*

A copy. Test: STA. CRUTCHFIELD, *C.*

EXHIBIT No. 2.

This indenture made this ninth day of January, in the year of our Lord one thousand eight hundred and nine, between Richard Bland Lee, of Lully, in the county of Fairfax and State of Virginia, and Elizabeth his wife, of the one part, and Bushrod Washington of Mount Vernon, in the said county of Fairfax and State of Virginia, of the second part, and Henry Smith Turner, of the county of Jefferson, Thomas Blackburn, of the county of Fairfax, and Bushrod Washington, jun'r, of the county of Westmoreland and State of Virginia, of the third part.

Whereas the said Richard Bland Lee, party to these presents, stands justly indebted by bond, bearing date the ninth day of January, in the year one thousand eight hundred and nine, to the first named Bushrod Washington, in the full sum of ten thousand thirty-four dollars and twenty-eight cents lawful money of the United States, which sum is payable on the first day of March, in the year one thousand eight hundred and fourteen, with interest thereon, after the rate of six per centum per annum, from the first day of March next, after the date of the presents, which interest is to be annually paid on the first day of March; and the first year's interest to be paid on the first day of March, in the year one thousand eight hundred and ten; and whereas it is reasonable and just that the said Richard Bland Lee should give to the said Bushrod Washington full and ample security for the payment of the aforesaid principal sum of ten thousand and thirty-four dollars and 28 cents, at the time when payment shall become due, and also for the punctual annual payment of interest on the said principal sum.

Now, this indenture witnesseth, that the said Richard Bland Lee and Elizabeth his wife, for and in consideration of the premises, and

for and in consideration of the sum of five dollars lawful money of the United States to them in hand paid by the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, at or before the sealing and delivery of these presents, the receipt whereof the said Richard Bland Lee doth hereby acknowledge, and thereof doth acquit and discharge them, the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, their executors, administrators, and assigns; and also for and in consideration of the covenants and agreements hereinafter expressed and contained, to be kept, done, and performed on the part of the said Bushrod Washington of Mount Vernon, and also on the part of the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, and on the part of each of them, have granted, bargained, and sold, aliened and confirmed, and by these presents, do grant, bargain, and sell, and alien, and confirm unto them, the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, and the survivers or surviver of them, and to the heirs of the last surviver of them, a certain tract or parcel of land, containing, by estimation, about five hundred and twenty-nine acres, known and called by the name of Lully, and on which the said Richard Bland Lee now resides; which said tract of land is situate, lying, and being in the county of Fairfax and State of Virginia, and is described and bounded as follows, to wit: Beginning at a swamp white oak, a corner to the lands of the said Richard Bland Lee, and of the heirs of George Richard Lee Turberville, deceased; thence, with a line dividing their lands south twenty-six and one half degrees east two hundred and forty poles to the road leading from Frying Pan meeting-house to Centreville, then pursuing the said road south forty degrees west, and south eighteen degrees west to the road leading from the old mill of Samuel Love, deceased, which mill is now down, and Mason Cub Run to the Ox road; thence, pursuing the said road to Love's mill south seven and three quarter degrees west, one hundred and thirty-six and an half poles to the Little River turnpike road to Alexandria; thence, with the said road north sixty-four and an half degrees west one hundred and thirty-four poles to a read oak sapling; thence, due north one hundred and seventy-one and a half poles to a pile of stones; thence; due east sixty-nine and a half poles to a stake; thence, due north one hundred and forty-two poles to the line dividing the land of the said Richard Bland Lee from the land of the heirs of the said George Richard Lee Turberville, deceased; thence, pursuing the said line south seventy-five degrees east ninety-nine poles, south eighty-four degrees east sixty-four poles to two small persimon trees; thence, south twenty-six degrees east to the beginning; containing five hundred and twenty-nine acres, which said tract of land is the same that was conveyed by deed, bearing date on the day of , in the year one thousand eight hundred and two, by the said Richard Bland Lee and Elizabeth his wife, to a certain Zaccheus Collins, of the city of Philadelphia, and State of Pennsylvania, and reconveyed by the said Zaccheus Collins to the said Elizabeth, the wife of the said Richard Bland Lee, by deed, bearing date on the fifth day of October, in the

year one thousand eight hundred and two, as will more fully appear by the said deeds now of record in the office of the county court of Fairfax. And also one other tract or parcel of land, called Langley Farm, situate, lying, and being in the county of Fairfax, near the Little Falls of the river Potomac, which last mentioned tract of land is described as follows, to wit: Containing sixteen hundred acres, be the same more or less, and being all the land and estate in the said county of Fairfax, which was settled on Henry Lee, junior, the son of Henry Lee, senior, and Matilda his wife, of Stratford, in the county of Westmoreland and State of Virginia, by a deed of settlement, bearing date on the tenth day of August, in the year one thousand seven hundred and ninety, as will more fully appear by referring to the said deed now of record in the office of the general court of the State of Virginia, and which said land has been by a good and sufficient deed conveyed to the said Richard Bland Lee in fee simple by the said Henry Lee, senior, and the said Henry Lee, junior, by their joint deed, dated on the fifth day of June, in the year one thousand eight hundred and eight, as will more fully appear by reference thereto now of record in the office of the county of Fairfax: To have and to hold the aforesaid two tracts or parcels of land with their and each or their appurtenances unto them, the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, and the survivers and surviver of them, and the heirs of the last surviver of them, in trust for the following purposes and none other, that is to say, to hold the said two tracts of land in trust and for the use of the said Richard Bland Lee, his heirs and assigns, until after a sale shall be of the said tracts of land or either of them, under the authority of this deed, and after such sale be made then to and for the use of the purchasers or purchaser thereof, until a conveyance shall be made to such purchasers or purchaser, their heirs or assigns, and if it shall so happen that the said Richard Bland Lee, his heirs, executors, or administrators, shall fail to pay the whole of the aforesaid sum of ten thousand and thirty-four dollars and twenty-eight cents, being the principal sum, on or before the first day of March, in the year one thousand eight hundred and fourteen, the day appointed by the condition of the said bond for the payment thereof, or fail to pay the interest on the said sum of ten thousand and thirty-four dollars and twenty-eight cents annually, as the same shall become due, and shall suffer the said annual interest to remain due and unpaid to the said Bushrod Washington of Mount Vernon, his heirs, executors, administrators, or assigns, for ninety days after the same shall become due, and payable on either of the above events, happening it shall and may be lawful for the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, or any one of them, or the survivers or surviver, or either of them, if two of them be then living, or the heirs of the last surviver of them, on the request of the said Bushrod Washington of Mount Vernon, or on the request of the executors, administrators, or assigns of the said Bushrod Washington, made in writing, to sell so much of the said property as may be sufficient for raising the sum which shall be then due and owing, which shall sale

is to be made on the respective tracts of land, and at public auction and upon the said trustees, or such of them as shall be required to make the said sale, giving thirty days previous notice of the time and place of sale in one of the newspapers published in the town of Alexandria or city of Washington, or in any newspaper published in the city of Richmond, if none be published in the town of Alexandria or city of Washington; and the said sale shall be made for ready money, unless the said Bushrod Washington of Mount Vernon, his executors, administrators, or assigns, shall in writing, direct otherwise; and the money or the proceeds arising from the said sale to be applied in the first place in discharge of costs of the said sale, and the residue to be paid over by the said trustees, or such of them as shall act to the said Bushrod Washington of Mount Vernon, his executors, administrators, or assigns, in payment of whatever sum of money that may be then due under this deed of trust, as far as the same will go in payment thereof. But it is hereby understood, that the sale for the sale for the principal sum is not to be made, unless the same or any part thereof, shall remain due and unpaid to the said Bushrod Washington of Mount Vernon, his executors, administrators, or assigns, for thirty days after the same shall be due, to wit: on the first day of March, in the year one thousand eight hundred and fourteen. And the said Richard Bland Lee, doth hereby for himself, his heirs, executors, and administrators, grant an irrevocable power and authority to the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, or either of them, to collect, distrain, and sue for, and in his, the said Richard Bland Lee's name, all rents which shall or may become due, after the first day of January, one thousand eight hundred and nine, from the tenants on the aforesaid sixteen hundred acres of land, called Langley Farm, and the said rents, when received, to pay over to the said Bushrod Washington of Mount Vernon, his executors, administrators, or assigns, which are to be applied towards the payment of the annual interest on the said principal sum of ten thousand and thirty-four dollars and twenty-eight cents. And it is hereby expressly understood between the said Richard Bland Lee and Bushrod Washington of Mount Vernon, that the power hereby given to the said trustees to receive the rents as aforesaid, is not intended to be construed to impair or diminish the power of the said trustees to sell any part or the whole of the hereby granted premises, if necessary, in case the interest be not paid on the said principal sum on the days herein before mentioned, as the same becomes due, but the said power of receiving the said rents by the said trustees is hereby declared to be intended as any auxiliary and additional security for the payment of the said debt and interest. And the said Bushrod Washington of Mount Vernon, doth for himself, his heirs, executors, administrators, and assigns, covenant and agree to and with the said Richard Bland Lee, his heirs, executors, administrators, and assigns, that in case it should be necessary to sell any part of the hereby granted property, that he the said Bushrod Washington of Mount Vernon, his heirs, executors, administrators, or assigns, will cause and require the said trustees, or such of them,

as shall act in the sale thereof, to sell in the first instance that tract or parcel of land, called Langley Farm; and also, will have the same laid off in convenient parcels for the purpose of selling it for the greatest price, the expense of laying off the same to be paid by the said Richard Bland Lee, his heirs or assigns. And the said Bushrod Washington of Mount Vernon, doth for himself, his heirs, executors, administrators, or assigns, covenant and agree to and with the said Richard Bland Lee, his heirs, executors, administrators, and assigns, in manner following: the said Richard Bland Lee, his heirs and assigns, shall be at liberty upon receiving the written consent of the said Bushrod Washington, his heirs, executors, administrators, or assigns, to sell any part of the said tract of land, called Langley Farm, and also upon condition of the purchaser or purchasers of the same paying over to the said Bushrod Washington, his heirs, executors, administrators, or assigns, the money arising from such sale, or securing the payment of the said money to the said Bushrod Washington, his executors, administrators, or assigns, if he or they shall elect to have the same secured to them. And the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, do each of them for themselves, severally, and not jointly, and their several heirs, covenant and agree, to and with the said Richard Bland Lee, his executors, administrators, or assigns, that upon such sale being made as last aforesaid, with the assent aforesaid of the said Bushrod Washington, and on the payment of the money arising from such sale to the said Bushrod Washington, his executors, administrators, or assigns, or security accepted by the said Bushrod Washington, his executors, administrators, or assigns, that they will make and execute to such purchasers or purchaser good and sufficient deeds, conveying to them all the right and estate they, the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, have in and to the property aforesaid sold as aforesaid. And further, the said Bushrod Washington of Mount Vernon, doth covenant and agree for himself, his heirs and assigns, to and with the said Richard B. Lee, his heirs and assigns, that upon the expiration of the present leases of the tenants on they hereby granted tract of land, called Langley, the said Richard Bland Lee, his heirs or assigns, shall be at liberty of renewing the same upon these express conditions and no others, to wit: that the said leases do not exceed the term of five years; and also, that the sum of six hundred dollars rent at least be reserved; and also, that the said leases shall contain the usual covenants, and particularly that of authorizing the said Richard Bland Lee, his heirs or assigns, or the said trustees, or the survivers or surviver of them, and the heirs of the said surviver in the name of the said Richard Bland Lee, his heirs and assigns, for the use of the said Bushrod Washington of Mount Vernon, his heirs and assigns, to reenter in case there should not be sufficient property to pay the rent reserved on the respective leased premises; and the said Henry Smith Tuner, Thomas Blackburn, and Bushrod Washington, junior, doth each for himself, and each of his heirs, covenant and agree to and with the said Richard Bland Lee, his heirs and assigns, that in case

the said Richard Bland Lee, his heirs or assigns, should lease again the said tract of land, called Langley, or any part thereof, that they will do all necessary acts to give validity to such new leases. And the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, doth each for himself, and his heirs, covenant and agree to and with the said Richard Bland Lee, his heirs and assigns, that in case the said Richard Bland Lee, his heirs, executors, administrators, or assigns, should pay the amount of the aforesaid ten thousand and thirty-four dollars and twenty-eight cents, with all the interest thereon, in the manner and at the times herein before stated, that then they the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, will by good and sufficient deeds or deed, reconvey the aforesaid hereby granted tracts of land, or such parts thereof, as shall be unsold under the authority of this deed, unto the said Richard Bland Lee, his heirs and assigns, or unto the said Elizabeth Lee, her heirs or assigns, as the title to such parts shall be found existed in the said Richard Bland Lee or Elizabeth his wife, before the execution of this deed. And the said Richard Bland Lee and Elizabeth his wife, do for themselves, their heirs, executors, and administrators, covenant and agree, to and with the said Bushrod Washington of Mount Vernon, that he the said Richard Bland Lee and Elizabeth his wife, and their heirs, shall and will at any time, when thereto reasonable required, execute such other and further deed as shall be deemed by the counsel of the said Bushrod Washington, his heirs and assigns, learned in the law, necessary for the better securing the said hereby granted property unto the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, for the purposes of the trust aforesaid, and for none other, and at the proper cost and charges of the said Bushrod Washington, his heirs and assigns. And they, the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, doth each for himself, and his heirs, to and with the said Bushrod Washington, his heirs and assigns, and with the said Richard B. Lee, and his heirs and assigns, covenant and agree, that they and their heirs will well and truly execute the trusts hereby vested in them. And the said Richard B. Lee, for himself and his heirs, doth agree with the said Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, jun., and their heirs and assigns, that he the said Richard Bland Lee and his heirs, the aforesaid two tracts of land hereby granted, and their and each of their appurtenances, unto them, and the survivers or surviver of them, and the heirs of the surviver, will for ever warrant and defend against the claim and demand of all and every person whomsoever, except against the tenants aforesaid on the same, claiming their rights as tenants.

In witness whereof, the said Richard Bland Lee and Elizabeth his wife, Bushrod Washington of Mount Vernon, Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, have each of them set their hands and seals, on the day and year first before written.

RICHARD BLAND LEE, [SEAL.]
ELIZABETH LEE. [SEAL.]

Sealed and delivered in the presence of:
JOHN COLEMAN,
RICHARD COLEMAN,
EDM. J. LEE.

MEMORANDUM.—It is hereby understood between the within named Bushrod Washington of Mount Vernon and Richard Bland Lee, parties to the within indenture, that the sum for securing the payments of which the said deed is given, is the amount due to the said Bushrod Washington on a mortgage given by Henry Lee, of Stratford, Westmoreland county, to him, the said Bushrod Washington, on an estate in Westmoreland, called Cabin Point, which sum is the balance of principal and interest due on said mortgage on the first day of March, in the year one thousand eight hundred and nine. But if any errors have been committed in calculating said balance, so that in law more or less is justly due to the said Bushrod Washington, such errors are to be corrected, and the balance so found to be properly due, and no other to be considered as principal sum due and secured by this deed.

In witness whereof, the said Bushrod Washington and Richard Bland Lee, have each of them set their hands and seals, on the day of the date of this indenture.

RICHARD BLAND LEE. [SEAL.]

At a court held for the county of Fairfax, the 21st day of August, 1809, this deed from Richard Bland Lee and Elizabeth his wife, and a memorandum thereon, endorsed to Henry S. Turner, Thomas Blackburn, and Bushrod Washington, junior, in trust for the use of Bushrod Washington, was acknowledged by the said Richard Bland Lee to be his act and deed, which together with a commission of return hereto annexed for taking the acknowledgment and privy examination of Elizabeth, wife of the said Richard Bland Lee, are ordered to be recorded.

Teste: WM. MOSS, *Clerk.*

FAIRFAX COUNTY, *to wit:*

The Commonwealth of Virginia to David Stewart, Richard Coleman, and John Coleman, Gentlemen, of the County of Fairfax:

Whereas Richard Bland Lee and Elizabeth his wife, by their certain indenture of bargain and sale bearing date the ninth day of January, in the year one thousand eight hundred and nine, have sold and conveyed unto Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, the fee simple estate of two certain tracts of land, situate in the said county of Fairfax, one called Lully, and the other called Langley, with the appurtenances, situate, lying, and being in the county of Fairfax; and whereas the said Elizabeth cannot conveniently travel to our said county court of Fairfax to make acknowledgment of the said conveyance; therefore, we do give

unto you, or any two or more of you, power to receive the acknowledgment which the said Elizabeth shall be willing to make before you of the conveyance aforesaid contained in the said indenture, which is hereunto annexed. And we do therefore desire you, or any two or more of you, personally to go to the said Elizabeth, and receive her acknowledgment of the same, and examine her privily and apart from the said Richard Bland Lee, her husband, whether she doth the same free and voluntarily, without his persuasions or threats, and whether she be willing the said indenture, together with this commission, shall be recorded in our said court. And when you have received her acknowledgment, and examined her as aforesaid, that you distinctly and openly certify us thereof in our said court, under your hands and seals, sending then there the said indenture and this writ.

Witness William Moss, clerk of the said court. this tenth day of January, 1809, and in the 33d year of the Commonwealth.

WM. MOSS, *Clerk.*

VIRGINIA, *Fairfax County, sct.*

In pursuance of the within commission to us directed, we, Richard Coleman and John Coleman, have examined the within named Elizabeth, wife of the within named Richard Bland Lee, touching her execution of the within mentioned indenture of bargain and sale to Henry Smith Turner, Thomas Blackburn, and Bushrod Washington, junior, who has acknowledged the execution thereof by her signature to be her act and deed, freely done *with* the fear, threats, or coercion of her said husband; and prays that the same may be duly admitted to record.

Witness our hands and seals, this second day of March, in the year of our Lord one thousand eight hundred and nine.

Examined RICHARD COLEMAN, [SEAL.]
JOHN COLEMAN. [SEAL.]

A Copy. Teste: THO. MOSS, *Clerk*

EXHIBIT No. 3. Copied in E. J. Lee's Answer, (which see.)

EXHIBIT No. 4.

My health obliges me to go to the springs, and that there may be no interuption to our business in concluding our bargain for Peter, I hereby acknowledge and declare, that my son Henry has full power to act and do any thing that may be necessary in signing a release from me or my heirs, or any thing that may be necessary to give a title to the above named negro man.

NICHS. PEERS.

Mr. EDMUND J. LEE.

Leesburg, August 22, 1811.

PART OF EXHIBIT No. 4.

August 7th, 1811. Received from Richard Bland Lee, three hundred dollars, to be applied to carry into effect his contract with a certain Nicholas Peers of Leesburg, for the purchase of a negro man slave Peter, now hired to the said Richard Bland Lee. And I engage to take the bill of sale to myself, and hold the said slave as further security for a debt due to Mrs. Elizabeth Lee from Richard Bland Lee, her husband, amounting to ten thousand dollars; and for the payment of which other property has been conveyed to Walter Jones, junior, and myself in trust by a deed bearing date on the sixth day of July last past. And on the payment of which debt I engage to make over to Richard Bland Lee or his assigns, all my right and title to the said slave.

Witness my hand and seal the day and year first above mentioned.

EDM. J. LEE. [SEAL.]

PART OF EXHIBIT 4.

Bill of Sale.

Know all men by these presents, that Nicholas Peers, of the county of Loudon and Commonwealth of Virginia, for and in consideration of three hundred dollars to me in hand paid by Edmund J. Lee, the receipt whereof I do hereby acknowledge; have bargained and sold, and by these presents do grant, bargain, and sell unto the said Edmund J. Lee, a certain negro man slave, named Peter, bought by me from a certain Stoughton Gantt, and which negro man is now in the possession of Richard Bland Lee, under hire to him; and I do hereby warrant and defend the possession of, and title to, the *the* said negro man slave, named Peter, to the said Edmund J. Lee and his assigns, for and during the natural life of the said negro man, named Peter.

In witness whereof, I have by my attorney in fact, Henry Peers, set my hand and seal, this second day of September, in the year one thousand eight hundred and eleven.

For NICHOLAS PEERS, [SEAL.]
HENRY PEERS.

Signed, sealed, and delivered in the presence of:

JOHN H. MCCABE,
DAVID LOUDT.

We, the subscribers, do agree to warrant and defend the title of the within named Edmund J. Lee and his assigns, to within named negro man for and during the natural life of the said negro man, it being understood that if the within named Henry Peers or Nicholas Peers, shall within twelve months from the date hereof, produce to the said Edmund J. Lee or his assigns, a sufficient bill of sale with a general warranty from the within named Stoughton Gantt in due form of law to the said Edmund J. Lee, that the said Edmund J. Lee

or his assigns, shall surrender up this bill of sale within written and this guarantee.

In witness whereof, we have hereunto set our hands and seals, this second day of September, in the year one thousand eight hundred and eleven.

HENRY PEERS, [SEAL.]
JOHN H. McCABE. [SEAL.]

Witness:
PRESLEY CORDELL.

PART OF No. 4.

Property obtained by Mrs. Lee:

18 horses - - -	$1000
Carriage and pair - -	800
2 wagons and carts - -	200
12 cows - - -	240
Plantation utensils - -	100
Negro man Peter - -	300
Buildings - - -	500
	$3140

Improvements in value of the land:

880 acres, at $6 per acre -	$5280
	$8420

See Exhibits 5 and 6, copied in E. J. Lees Answer.

EXHIBIT No. 7.

Schedule No. 1.

The following is a list of such furniture and plate as still remains in the possession of the respondent, Elizabeth Lee, viz:

Silver plate—1 coffee pot, ditto 1 tea pot.
Ditto 2 butter boats, do 1 slop bowl.
Ditto 1 dozen table spoons, do 1 do tea spoons.
Ditto 1 soup ladle, do 2 gravy spoons.
Ditto 1 mug.

Plated ware—1 large urn, 2 goblets, 4 candle sticks, 1 bread basket, 1 waiter.

Household furniture—1 wardrobe, mahogany, 1 bedstead, do pair of card tables, 8 chairs, mahogany, 1 dining table, 1 sideboard, 1 workstand, 1 breakfast table, 3 prints, 2 looking glasses, 2 beds and mattrasses, &c., 3 pair andirons, and 1 fender, 1 passage lamp, 1 passage couch, 1 sofa, 1 broken sets of china, do do glass, 1 do 1 do china jars.

As to kitchen utensils, &c.—There is the small remains, viz: a very few old articles, nearly all now in her possession having been purchased since the death of R. B. Lee.

ELIZABETH LEE.

P. S.—Nearly all the plate, furniture, &c. of which the above is the remnant, had been purchased and given to this respondent by her father, and very little, if any, was obtained or bought by said Richard B. Lee, Esq.

Additional Memorandum to Schedule No. 1.

The following furniture was conveyed to Ed. J. Lee, William Maffitt, and Richard Coleman, by deed marked Exhibit No. 3, in said Ed. J. Lee's separate answer, viz:

1 piano forte, now in the possession of this respondent's daughter—valued in said deed in 1819, at - -	$200
now worth less than - - -	100
1 mantle clock, valued then at - - -	100
now worth less then - - -	75

as the only substitutes for the very valuable slave Milly, sold by R. B. Lee to General Van Ness.

This respondent has as fully as she can accounted in her answer for the slaves mentioned by complainants.

P. S.—By the deed marked Exhibit No. 4, in E. J. Lee's separate answer, R. B. Lee conveyed a certain new plated coachee, and new plated harness and a pair of horses, valued at the date of that deed (13th July, 1818,) at $850, in lieu of Letty and her three sold by him to D. Parker, which said carriage and horses remained in E. Lee's possession till 1826, when the said carriage, then valued at $200, was disposed of, and the horses died.

ELIZABETH LEE.

Continuance.

Thereupon, the cause was continued at rules until the fourth Monday of October next, when, on motion of the said defendants, Ed. J. and Elizabeth Lee, by their solicitor aforesaid, it was ordered by the court, that the said complainants enter a general replication to the answers aforesaid, or in default thereof that the said bill be dismissed. Thereupon, the complainants by their solicitor aforesaid, filed in court here the following replication:

Replication.

The replication of the President, Directors, and Company of the Bank of the United States, to the separate and respective answer of the defendants, E. Lee and E. J. Lee; these repliants saving and reserving to themselves all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties,

and insufficiencies of the answers of said defendants for replication thereunto say, that they do and will aver, maintain, and prove their said bill to be true, certain, and sufficient in the law to be answered unto by the said defendants; and that the answers are each of them very uncertain, evasive, and insufficient in the law to be replied unto by the repliants, without that that any other matter or thing in the said answers, or either of them, contained material or effectual in the law to be replied unto, and herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things these repliants are ready to aver, maintain, and prove, as this honorable court shall direct, and humbly pray as in and by said bill they have already prayed.

COXE AND CARLISLE,
Solicitors, &c. of Complainants.

27th October, 1836.

R. Smith's Answer.

Whereupon, Richard Smith, by his solicitors aforesaid, filed in court here the following answer:

The separate answer of Richard Smith to the bill of complaint of the Bank of the United States, complainant, against Elizabeth Lee, Edmund J. Lee, and the said Richard Smith, defendants.

This defendant in answer to so much of the said bill of complaint, as he is advised it is material or necessary for him to make answer unto, answers and says: That he has no personal knowledge of so much of the allegations in said bill contained as relate to the situation of R. B. Lee and the defendants in said bill named in Virginia, or the circumstances under which said parties acted; but he has heard and believes, that the averments in said bill in all material circumstances are in accordance with the facts of the case. From his official connexion with said complainants, he knows of the existence as charged of the said debt incurred by said R. B. Lee to the complainants, and of the execution of the said deed of trust to defendant by said R. B. Lee as charged in said bill, and the execution of the same by this defendant as trustee; and *and* this defendant from the same circumstances knows, that the said property mentioned in the deed of trust to defendant as conveyed by Overton Carr and R. B. Lee, was sold to the best advantage by deponent as trustee, with the full knowledge as he believes of the said Elizabeth Lee, her son and adviser, who has acted on her behalf throughout the business, having been, as this defendant believes from recollection, present, and bid at the sale of said property. Also, that the same person, to wit, L. C. Lee, Esq., purporting to act for and on behalf of his mother, the said Elizabeth Lee, was privy to all the proceedings which were had in Virginia in relation to the claim against John Hopkins, also mentioned in said deed, and was continually advised with by the agents of complainants in reference thereto; and further, this defendant says, that on or about the 16th June, 1825, another conveyance was executed to this defendant by said R. B. Lee and the said Elizabeth, for a tract of

land in Fairfax county, Virginia, called Langley, containing, as was said, 540 acres, as further security for said debt due by said R. B. Lee to complainants. And this defendant as trustee under this last mentioned deed endeavored to execute the said trust therein created by a sale of said property therein mentioned, but has been prevented from so doing by the said Elizabeth or some one on her behalf, upon some pretence of a settlement of the same, upon her obtaining an injunction to stay this defendant in his proceedings, and said injunction suit is still as defendant believes, pending in the court of appeals of Virginia upon an appeal by said Elizabeth, or at her instance and for her use, so that thus far nothing has been made from that quarter towards the debt due to complainants, that the proceeds arising from the sale of said first mentioned property were applied to the extinguishment so far as they extended of the debt due by R. B. Lee to complainants, and that nothing was received from the said claim against said John Hopkins. That in all the proceeding had, to make the debt so due out of the property so conveyed by R. B. Lee and Overton Carr, and from the claim against John Hopkins, the complainants and their agents acted in good faith and perfect candor towards the said Elizabeth and her family, and were anxious on their behalf to realise as much as possible from those sources, never hearing or suspecting so far as this defendant knows or believes of the existence of the said deed, under which said Elizabeth now claims to hold said property, which was never communicated to this defendant, or he believes to any agent of complainants, until all other means having failed, or being exhausted, this defendant was required and was about to execute the powers given to him as trustee by said deed to him from R. B. Lee, nor until about that period was there any reasonable doubt that the debt to complainants was duly secured.

And this defendant as such trustee, and on behalf and for the use of said complainants, did endeavor to obtain possession of the slaves and other property so conveyed to him in trust, and not being able in any other way so to do, the writ of replevin mentioned in said bill was sued out in his name, and the agreement as stated made in the premises; and this defendant further says, that he has been prevented by the circumstances above mentioned from executing his said trust, and is desirous and willing to perform the same, and submits himself to the order and decree of this honorable court in the premises, and prays to be allowed his costs in this behalf.

October 28th, 1836. RICHARD SMITH.

DISTRICT OF COLUMBIA, *County of Washington, ss.*

On this 29th day of October, 1836, personally appeared before the subscriber, one of the justices of the peace in and for said county, Richard Smith, defendant in the foregoing answer named, who being duly sworn according to law, says that the averments and allegations in said answer contained, are true to the best of his knowledge and belief.

Sworn before me, SAM. H. SMITH, *J. P.*

The following Exhibits were omitted to be copied in their proper places, to wit:

This indenture made this seventh day of August, in the year of our Lord one thousand eight hundred and two, between Richard Bland Lee of Lully, in the county of Fairfax and Commonwealth of Virginia, and Elizabeth his wife, of the one part, and Zaccheus Collins, of the city of Philadelphia and State of Pennsylvania, of the other part; witnesseth: that the said Richard Bland Lee and Elizabeth his wife, for and in consideration of the sum of one dollar to them in hand paid by the said Zaccheus Collins, at or before the ensealing and delivery of these presents, the receipt whereof the said Richard Bland Lee doth hereby acknowledge, and thereof doth acquit, exonerate, and discharge the said Zaccheus Collins, his heirs and assigns, and every of them for ever by these presents, they the said Richard Bland Lee and Elizabeth his wife, have granted, bargained, sold, aliened, enfeoffed, and confirmed, unto the said Zaccheus Collins, his heirs and assigns for ever, five hundred acres of the Lully Farm, situate, lying, and being in the county of Fairfax aforesaid, to include the dwelling-house, stable, and other outhouses, the said five hundred acres to be at the east end of the Lully tract, and to be laid off by running a line due north and south to the west of the said dwellinghouse, so as to include all the eastern part of the said farm; which said five hundred acres of land is a part of a larger tract of land, devised to the said Richard Bland Lee, among other things, by his father, Henry Lee, by his last will and testament, as will appear by referring to the same, now of record in the office of the county court of Prince William county, and do grant, bargain, alien, and enfeoffe, and confirm by these presents, unto the said Zaccheus Collins, his heirs and assigns for ever, all the aforesaid five hundred acres of land, to be laid off as aforesaid, together with the dwellinghouse and outhouses, and all other their appurtenances, and the reversion and reversions, remainder and remainders, issues, rents, and profits of the aforesaid hereby granted tract or parcel of land, and every part and parcel thereof; and also, all the right, estate, and interest of them, the said Richard Bland Lee and Elizabeth his wife, in and to the same: To have and to hold the aforesaid five hundred acres of land and its appurtenances unto him, the said Zaccheus Collins, his heirs and assigns, for ever, to the only use and behoof of him, the said Zaccheus Collins, his heirs and assigns, for ever. And the said Richard Bland Lee, doth for himself and his heirs, covenant and grant, to and with the said Zaccheus Collins, his heirs and assigns, and to and with every of them by these presents, that the aforesaid five hundred acres of land hereby granted, and every part thereof, with all and singular their and every of their appurtenances, now are, and be, and from henceforth, for ever hereafter continue, remain, and be unto the said Zaccheus Collins, his heirs and assigns, free and clear, acquitted, exonerated, and discharged, of and from all and every manner of encumbrance whatsoever, had made, committed, done, or acknowledged, or suffered or caused to be had, made, or suffered by the said Richard

542

Bland Lee and Elizabeth his wife; and the said Richard Bland Lee and Elizabeth his wife, do hereby further covenant and grant for themselves and their heirs, and for each and every of them, to and with the said Zaccheus Collins, his heirs and assigns, and with each and every of them, that they the said Richard Bland Lee and Elizabeth his wife, and their and each of their heirs, the aforesaid five hundred acres of land, and all and singular the premises, hereby granted or intended to be granted, and every part and parcel thereof, with all and singular their and every of their rights, members, and appurtenances, unto the said Zaccheus Collins, his heirs and assigns, against the claim and demand of them, the said Richard Bland Lee and Elizabeth his wife, and their and each of their heirs, and against the claim and demand of all and every other person or persons whomsoever, shall and will warrant and for ever defend by these presents.

In witness whereof, the said Richard Bland Lee and Elizabeth his wife, have each of them set their hands, and affixed their seals on the day and in the year first above written.

Signed RICHARD BLAND LEE, [SEAL.]
ELIZABETH LEE. [SEAL.]

Signed, sealed, and delivered in the presence of:

RICHARD COLEMAN,
RICHARD M. SCOTT,
HUMPH. PEAKE.

At a court held for Fairfax county, the xx. day of September, 1802, Richard B. Lee acknowledged this deed to Zaccheus Collins to be his act and deed, which, together with the commission and return hereto annexed, for the privy examination of Elizabeth Lee, wife of the said Richard B., are ordered to be recorded.

Teste: WM. MOSS, *Clerk F. County.*

FAIRFAX COUNTY, *sct.*

The Commonwealth of Virginia to David Stuart, Humphrey Peake, and Richard M. Scott, Gentlemen, Magistrates of the County of Fairfax, greeting:

Whereas Richard Bland Lee and Elizabeth his wife, by their certain indenture of bargain and sale, bearing date the seventeenth day of August, 1802, have sold and conveyed unto Zaccheus Collins the fee simple estate of a certain tract of land, containing five hundred acres, with the appurtenances, situate, lying, and being in the county of Fairfax aforesaid; and whereas the said Elizabeth cannot conveniently travel to our said court to make acknowledgment of the said conveyance; therefore, we do give unto you, or any two or more of you, power to receive the acknowledgment which the said Elizabeth shall be willing to make before you of the conveyance aforesaid, contained in the said indenture, which is hereto annexed; and we do therefore desire you, or any two or more of you, personally to go to

the said Elizabeth, and receive her acknowledgment of the same, and examine her privately and apart from the said Richard Bland Lee, her husband, whether she doth the same freely and voluntarily without his persuasions or threats; and whether she be willing the said indenture, together with this commission should be recorded in our said court. And when you have received her acknowledgment, and examined her as aforesaid, that you distinctly and openly certify us thereof in our said court, under your hands and seals, sending then there this indenture and this writ.

Witness William Moss, clerk of the said court, this seventh day of August, 1802.

WM. MOSS, *Clerk F. County.*

FAIRFAX COUNTY, *sct.*

By virtue of the within commission to us directed, we certify that we personally went to the within mentioned Elizabeth, wife of the within mentioned Richard B. Lee, to receive the acknowledgment, which she was willing to make, touching the within mentioned indenture, and examined her privately and apart from the said Richard Bland, her husband; and that she acknowledged to us that she executed the within mentioned indenture, freely and voluntarily, without the persuasion or threats of her said husband, and that she is willing the same shall be recorded in the county court of Fairfax.

Given under our hands at half past four o'clock P. M., the 7th of August, 1802.

RICH'D M. SCOTT,
HUMPH. PEAKE.

Truly recorded.

Teste: WM. MOSS, *Clerk.*

A copy.

Teste: THOS. MOSS, *Clerk.*

This indenture made this fifth day of October, in the year of our Lord one thousand eight hundred and two, between Zaccheus Collins, of the city of Philadelphia, in the State of Pennsylvania, of the one part, and Elizabeth Lee, wife of Richard Bland Lee, of Sully, in the county of Fairfax and State of Virginia, of the other part; witnesseth: that the said Zaccheus Collins for and in consideration of the said Elizabeth Lee, having made and executed conjointly with the said Richard Bland Lee, a deed of bargain and sale bearing date on the day of , in the year of our Lord one thousand eight hundred and two, to Ferdinando Faufar, for eight tracts or parcels of land in the State of Pennsylvania, which were devised to her by the last will and testament of her father, Stephen Collins, and for and in consideration of the natural love and affection which the said Zaccheus Collins bears to his sister, the said Elizabeth Lee; and also for and in consideration of the sum of five dollars to him in hand paid at or before the ensealing and delivery of these presents to the said Zaccheus Collins by the said Elizabeth Lee, (the receipt

whereof the said Zaccheus Collins doth hereby acknowledge, and thereof doth acquit, exonerate, and discharge the said Elizabeth Lee, her heirs and assigns, for ever by these presents.) He, the said Zaccheus Collins, *have* granted, bargained, sold, aliened, enfeoffed, and confirmed, and by these presents doth grant, bargain, sell, alien, enfeoffed, and confirm unto the said Elizabeth Lee, her heirs and assigns, for ever, five hundred acres of land, which were by deed bearing date on the day of , in the year 1802, conveyed by the said Richard Bland Lee and the said Elizabeth to him, the said Zaccheus Collins, which said lands is the eastern part of the farm on which the said Richard Bland Lee lives, and is called and known by the name of Lully, and is to be laid off by a line drawn and running due north and south to the west of the dwellinghouse, so as to include within the said five hundred acres of land the said dwellinghouse and all the outhouses, which said five hundred acres of land is a part of a larger tract of land devised to the said Richard Bland Lee by the last will and testament of his father, Henry Lee, as will appear by referring to the said will now of record in the office of the court for the county of Prince William, together with the houses of every kind and description, and the appurtenances thereunto belonging, or in any wise appertaining; also, the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also, all the right, title, estate, and interest of him, the said Zaccheus Collins, in and to the same: To have and to hold the aforesaid five hundred acres of land and its appurtenances, unto her, the said Elizabeth Lee, her heirs and assigns, for ever; to the only proper use and behoof of her, the said Elizabeth Lee, her heirs and assigns, for ever. And the said Zaccheus Collins doth for himself and his heirs, covenant to and with the said Elizabeth Lee, her heirs and assigns, that he, the said Zaccheus Collins and his heirs, shall and will from time to time, or at all times hereafter, for the better assurance and conveying of the said five hundred acres of land, and the houses and appurtenances thereunto belonging unto her, the said Elizabeth Lee, her heirs and assigns, upon the request of either, and at their proper costs and charges in the law, make, execute, and acknowledge such reasonable assurance or conveyance as she, the said Eliizabeth Lee, her heirs or assigns, or her or their counsel learned in the law, shall reasonably require, advise, or devise; and the said Zaccheus Collins doth for himself and his heirs, further covenant and grant to and with the said Elizabeth Lee, her heirs and assigns, to and with each and every of them by these presents. That he, the said Zaccheus Collins and his heirs, the aforesaid five hundred acres of land, and all and singular the premises hereby granted or intended to be granted, and every part and parcel thereof, with all and singular their and every of their rights, members, and appurtenances, unto the said Elizabeth Lee, her heirs and assigns, against the claim and demand of him, the said Zaccheus Collins and his heirs, and against the claim and demand only of such person or persons, who shall claim by, from, through, or under him, or his heirs, shall and will warrant and for ever defend by these presents.

In witness whereof, the saith Zaccheus Collins hath hereunto set his hand, and affixed his on the day and in the year first above written.

ZACCHEUS COLLINS. (X)

Signed, sealed, and delivered in the presence of:

THOMAS STEWARDSON,
CHARLES SHOEMAKER.

On this twelfth day of October, one thousand eight hundred and two, before me, Matthew Lawler, mayor of the city of Philadelphia, personally came Zaccheus Collins, of the said city, the grantor within named, and acknowledged the foregoing instrument as his act and deed, and desired the same to be placed on record accordingly.

In witness whereof, I have hereunto set my hand, and caused the seal of the city of Philadelphia to be affixed, the day and year before written.

[SEAL.] MATW. LAWLER, *Mayor.*

At a court held for Fairfax county, the 21st day of February, 1803, this deed from Zaccheus Collins to Elizabeth Lee, wife of Richard B. Lee, having been duly acknowledged by the said Zaccheus Collins before Matthew Lawler, mayor of the city of Philadelphia, and certified by him under the seal of his office, is, on motion, ordered to be recorded.

Teste: WM. MOSS, *Clerk.*

A copy. Teste: THOMAS MOSS, *Clerk.*

This indenture made the first day of February, in the year of our Lord one thousand eight hundred and eleven, between Richard Bland Lee, Esquire, and Elizabeth Lee his wife of Lully, in the county of Fairfax, in Virginia, of the first part, the Honorable Bushrod Washington of Mount Vernon, Esquire, of the second part, and Francis Lightfoot Lee, Esquire, of Virginia, of the third part; witnesseth: that for and in consideration of the sum of eighteen thousand dollars lawful money of the United States to the said Richard Bland Lee and Elizabeth Lee, in hand paid by the said Francis Lightfoot Lee, at or before the ensealing and delivery of these presents, the receipt whereof the said Richard Bland Lee and Elizabeth Lee do hereby acknowledge, and thereof and every part thereof do clearly exonerate, acquit, and discharge the said Francis L. Lee, his heirs, executors, administrators, and assigns, for ever by these presents; they the said Richard Bland Lee and Elizabeth Lee, have granted, bargained, sold, aliened, enfeoffed, and confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, and confirm, unto the said Francis Lightfoot Lee, his heirs and assigns, for ever, all that tract and parcel of land, called Lully, with the appurtenances, situate and being in the county of Fairfax, whereon the said Richard Bland Lee resides, being a part of the estate devised unto him by his father, the late Henry Lee, of Prince William, and is bounded and described as follows, according to a survey made thereof on the 4th of June, 1804, by R. B. Rat-

cliffe, deputy surveyor of the county of Fairfax, viz: Beginning at a swamp oak in the head of a drain corner to the lands of the late George R. L. Turberville and the said Richard Bland Lee, and running thence south twenty-six degrees thirty minutes east two hundred and forty poles to the road leading from Frying Pan meeting-house to Centreville; thence, pursuing the said road south forty degrees west thirty poles, south eighteen west forty-three poles and a half to the road leading from the Ox road to Samuel Love's late mill on Cub run; thence, pursuing the last mentioned road, south seventy-five degrees forty-five minutes west four hundred and thirty-one poles to an oak in a drain corner to the lands of David Stuart, William Lee, and Richard Bland Lee; thence, north seventy-three degrees west eighty-seven poles to a stake in a field, a corner to the lands of Richard Bland Lee and Robert Thomas, senior; thence, following their line north twelve degrees ten minutes east one hundred and ninety-six poles, crossing the Little River Turnpike to a stake, another corner to said Lee and Thomas; thence, south seventy-seven degrees east twenty-nine poles to a red oak and hickory saplings; thence, south nine degrees fifteen minutes west thirty-three and a half poles to a stake on the Little River turnpike road; thence, down the said road south sixty-four degrees thirty minutes, east one hundred and forty poles to a red oak sapling and stone on said road; thence, north one hundred and seventy-one poles to a stake and pile of stones in a field; thence, east sixty-nine and a half poles to another stake and pile of stones in a field; thence, north one hundred and forty-two poles to a red oak; thence, south seventy-six and a half degrees east one hundred and sixty-eight poles to the beginning: Containing seven hundred and seventeen acres and a few perches; also, three acres of land adjoining the said estate, called Sully, which said three acres were purchased by the said Richard Bland Lee from the late George Richard Lee Turberville, and were unto the said Richard Bland Lee and his heirs, conveyed by a certain indenture, bearing date the seventh day of August, one thousand eight hundred and five, between the late Thomas Lee, senior, then guardian of the children of the said George Richard Lee Turberville, as will fully and at large appear by reference unto the said indenture of record in the court of the county of Fairfax, and the revision and reversions, remainder and remainders of all and singular the said tracts and parcels of land and premises hereby granted or mentioned, or intended to be hereby granted, and every part and parcel thereof: Together with all the houses, buildings, improvements, gardens, orchards, woods, ways, and water courses: And all the rents, issues, profits, insurances, and advantages of the premises hereby granted or mentioned, or intended to be granted, and of every part and parcel thereof; and also, all and every the estate and estates, rights, titles, claims, interests, and demands whatsoever of them, the said Richard Bland Lee and Elizabeth Lee, or either of them, in, to, or out of the said lands, messuages, tenements, hereditaments, and premises, and every part and parcel of the same, and all and every the deeds, charters, writings, muniments, and policies of insurance whatsoever touching or concern-

ing the said messuage, land, tenements, hereditaments, and premises: To have and to hold the said lands, tenements, hereditaments, and all the other premises hereby granted or mentioned, or intended to be hereby granted, bargained, and sold, and every part and parcel thereof, with their and every of their appurtenances unto the said Francis Lightfoot Lee, his heirs and assigns, for ever, to the only and proper use and behoof of him, the said Francis L. Lee, his heirs and assigns, for ever. And the said Richard Bland Lee, and the said Elizabeth Lee do hereby grant, covenant, and agree for themselves, jointly and severally, and for their respective heirs, executors, and administrators, that they, the said Richard Bland Lee and Elizabeth Lee, and the heirs of each of them, the lands, tenements, hereditaments, and all and singular the other premises hereby granted or mentioned, or intended to be granted, and every part and parcel thereof, with all and singular of their rights, members, and appurtenances, unto the said Francis Lightfoot Lee, his heirs and assigns, against themselves, the said Elizabeth Lee and Richard Bland Lee, and their respective heirs, and against all and every other person or persons whatsoever, shall and will warrant, and for ever defend by these presents. And further, the said Richard Bland Lee and Elizabeth Lee, do jointly and severally, for themselves, their respective heirs, executors, and administrators, covenant and grant to and with the said Francis L. Lee, his heirs and assigns, and to each and every of them by these presents, in manner and form following, that is to say, that the said Richard Bland Lee and Elizabeth Lee, are now true and lawful owners of the said lands, tenements, and hereditaments, and all and singular the other premises hereby granted or mentioned, or intended to be granted, and of every part and parcel thereof, with their and every of their appurtenances; and are rightly and absolutely seized thereof, and of every part thereof, of a good, pure, absolute, and indefeasible estate of inheritance in fee simple, without any manner of condition, trust, contingent covenant, proviso, limitation of uses or other restraint, matter or thing whatsoever, to alter, change, charge, encumber, determine, defeat, or evict the same. And that they will so continue to be seized thereof, and of every part and parcel thereof, until a good, perfect, and absolute estate in fee simple shall be thereof vested in the said Francis Lightfoot Lee and his heirs, according to the true intent and meaning of these presents. And also, that they the said Richard Bland Lee and Elizabeth Lee, now have a good right, lawful and absolute power and authority in themselves, to grant and convey all and singular the said lands, tenements, hereditaments, and premises, and every part thereof, with the appurtenances, unto the said Francis Lightfoot Lee, his heirs and assigns, to the only use and behoof of the said Francis Lightfoot Lee, his heirs and assigns, in manner and form aforesaid. And also, that the said lands, tenements, hereditaments, and premises hereby granted or mentioned, or intended to be granted as aforesaid, with all and singular their appurtenances, are now and from henceforth for ever, shall continue unto the said Francis Lightfoot Lee, his heirs and assigns, free and clear and exonerated from all manner of other, and former bargains, sales, gifts, grants, feoff-

547.

ments, uses, jointers, dowers, estate, leases, rights, titles, rents, debts, duties, judgments, executors charges, troubles, forfeitures, and encumbrances whatever. And also, that they the said Richard Bland Lee and Elizabeth Lee, their heirs and assigns, and all and every other person or persons whomsoever having, or lawfully claiming, or which shall or may at any time hereafter have, or lawfully claim any estate, right, title, or interest of, in, or to the said premises hereby granted or mentioned, or intended to be granted, or of, in, or to any part or parcel thereof, shall and will at any and all times hereafter, upon the request of the said Francis Lightfoot Lee, his heirs or assigns, or some of them, make, do, execute, and acknowledge all and every such act and acts, assurances and conveyances in law whatsoever for the better and more perfect assurance, conveying, and confirming the said lands, tenements, hereditaments, and premises, and every part and parcel thereof, unto the said Francis Lightfoot Lee, his heirs and assigns, according to the true intent and meaning of this indenture, and of a certain agreement between the said Richard Bland Lee and the said Francis Lightfoot Lee, bearing date the 20th of January, 1811, for the purchase of the said estate, called Lully, with the appurtenances, as the said Francis Lightfoot Lee, his heirs and assigns, or any of them, or his or their counsel learned in the law shall reasonably devise, advise, or require, and the said Bushrod Washington, Esquire, of Mount Vernon, for and in consideration of seven thousand four hundred and fifty dollars, part of the consideration first above expressed by and with the direction and consent of the said Richard Bland Lee and Elizabeth Lee, in hand now paid unto the said Bushrod Washington by the said Francis L. Lee, the receipt whereof the said Bushrod Washington doth hereby acknowledge, and thereof doth for ever acquit, exonerate, and discharge the said Francis L. Lee and the said Richard B. Lee and Elizabeth Lee and their heirs, executors, and administrators; the said Bushrod Washington doth by these presents, free, release, disencumber, and discharge the said estate, called Lully, and its appurtenances, and every part thereof, from every claim, debt, demand, and interest whatever of him, the said Bushrod Washington, of, in, to, or out of the said estate, or any part thereof. And the said Bushrod Washington doth for himself, his heirs, executors, and administrators, hereby grant, covenant, and agree to and with the said Francis L. Lee, his heirs and assigns, that the said Francis L. Lee, his heirs and assigns, and every of them, the said estate, called Lully, and its appurtenances, and every part thereof, shall and may for ever enjoy clear, released discharged, and exonerated from every claim, demand, interest, title, and right whatsoever in law or equity of him, the said Bushrod Washington, or any person or persons claiming or to claim, by, through, under, or on account of him.

In witness of all which, the parties have hereunto affixed their hands and seals, the day and year first above written.

RICHARD BLAND LEE, [SEAL.]
ELIZABETH LEE, [SEAL.]
BUSH. WASHINGTON, [SEAL.]
FRANCIS L. LEE.

Signed, sealed, and delivered before us:

GEO. SUMMERS, for Mr. and Mrs. LEE,
WILLIAM HODGSON, do do
JOHN THOS. RICKETTS, do do
N. HERBERT, to B. W.
WM. HERBERT, JR., B. W.
CH. LEE, B. W.
EDMUND J. LEE, B. W.

County of Fairfax, February first, 1811. Received of Francis Lightfoot Lee, eighteen thousand dollars, the consideration within expressed.

RICHARD BLAND LEE, [SEAL.]
ELIZABETH LEE. [SEAL.]

Witness: JOHN THOS. RICKETTS.

MR. and MRS. LEE signed the above receipt in the presence of

GEO. SUMMERS.

I acknowledge the receipt of the sum stated in the within deed to have been paid to me.

BUSH. WASHINGTON.

Teste: EDMUND J. LEE.

At a court continued, held for Fairfax county, the 19th day of March, 1811, this deed from Richard Bland Lee and Elizabeth Lee his wife, of the first part, the Honorable Bushrod Washington, of the second part, and Francis L. Lee, of the third part, was proved to be the act and deed of the said Bushrod Washington by the oaths of Robert Herbert and Edmund J. Lee, and ordered to be certified.

And at a court continued and held for said county, the 22d day of March, 1811, the same was acknowledged by the said Richard B. Lee to be his act and deed, and ordered to be certified.

And at a court continued and held for the said county, the 19th day of March, 1811, this deed having been duly acknowledged by the said Richard B. Lee, to wit, at March court, 1811, which was then ordered to be certified on motion of the said Francis L. Lee. It is ordered to be recorded as to the said Richard Bland Lee, together with the receipts thereon endorsed, and a commission and return thereto annexed, for taking the acknowledgment and privy examination of the said Elizabeth, wife of the said Richard Bland Lee.

Teste: WM. MOSS, *Clerk.*

550.

FAIRFAX COUNTY, *to wit:*

The Commonwealth of Virginia to William Payne, Thomson Mason, George Summers, Richard M. Scott, Lawrence Lewis, and John T. Ricketts, Gentlemen, Justices of the County of Fairfax, greeting:

Whereas Richard Bland Lee and Elizabeth his wife, by their certain indenture of bargain and sale, bearing date the 1st day of February, 1811, have sold and conveyed unto Francis Lightfoot Lee, the fee simple estate of a certain piece, parcel, or tract of land, called Lully, containing seven hundred and twenty acres with the appurtenances, situate, lying, and being in the said county of Fairfax; and whereas the said Elizabeth cannot conveniently travel to our said county court of Fairfax to make acknowledgment of the said conveyance: Therefore, we do give unto you, or any two or more of you, power to receive the acknowledgment which the said Elizabeth shall be willing to make before you of the conveyance aforesaid, contained in the said indenture, which is hereunto annexed. And we do therefore desire you, or any two or more of you, personally to go to the said Elizabeth, and receive her acknowledgment of the same, and examine her privy and apart from the said Richard B. Lee, her husband, whether she doth the same freely and voluntarily without his persuasions or threats, and whether she be willing the said indenture together with this commission shall be recorded in our said court; and when you have received her acknowledgment and examined her as aforesaid, that you distinctly and openly certify us thereof in our said court under your hands and seals, sending then there the said indenture and this writ.

Witness William Moss, clerk of the said court at the courthouse of the county aforesaid, this second day of February, 1811, and in the 35th year of the Commonwealth.

WM. MOSS, *Clerk.*

FAIRFAX COUNTY, *to wit:*

In obedience to the within commission to us directed, we, the subscribers, two of the justices of the peace for the county aforesaid, did personally go to the within named Elizabeth, wife of Richard B. Lee, and did examine her privately and apart from her said husband, whether she executed the indenture herein recited and hereto annexed, freely and voluntarily without the persuasions or threats of her said husband; and whether she was willing that the same should be recorded in the court of our said county. When she declared to us, that she executed the said indenture freely and voluntarily withou the persuasions, threats, or other undue influence of her said husband, and that she was willing that the same together with this commission and acknowledgment should be recorded in the court of the said county.

Given under our hands and seals, this second day of February, one thousand eight hundred and eleven.

GEORGE SUMMERS, [SEAL.]
JOHN THOS. RICKETTS. [SEAL.]

Truly recorded.

Teste: WM. MOSS, *Clerk.*

A Copy.

Teste. THOS. MOSS, *Clerk.*

This indenture made this sixteenth day of June, in the year of our Lord eighteen hundred and twenty-five, between Richard Bland Lee and Elizabeth his wife, of the city of Washington and District of Columbia, of the one part, and Richard Smith, cashier of the Office of Discount and Deposite of the Bank of the United States at the city of Washington, in the District of Columbia, of the other part; whereas the President and Directors of the said Office of Discount and Deposite have agreed to send a special agent to attend the sale of a certain estate in the county of Frederick and Commonwealth of Virginia, now belonging to, and in the possession of John Hopkins, senior, which estate has been advertised for sale by trustees duly appointed pursuant to a deed of trust for the benefit of the representatives of one Rowleigh Colston, which sale is to take place on the twentieth day of this month on the premises; and whereas Richard Bland Lee aforesaid, hath heretofore assigned to the said Richard Smith, in his capacity of cashier aforesaid, among other securities and pledges, a debt due from the aforesaid John Hopkins, being for part of the consideration given to the said Richard Bland Lee by the said Hopkins, for the estate before mentioned as advertised for sale, which said debt was assigned to the said Smith by the said Richard Bland Lee, for the purpose of securing the payment of a debt due to the said Bank of the United States from the said Richard Bland Lee; and whereas the said Richard Bland Lee hath obtained a judgment in the superior court of the county of Frederick and Commonwealth of Virginia, for the debt assigned to the said Smith so as aforesaid, now amounting to about the sum of fourteen thousand dollars; which said judgment is a lien on the said tract of land, in the possession of said Hopkins, who had, notwithstanding previously thereto, mortgaged the said land by two indentures of trust, to wit, one made to Rowleigh Colston, to secure the payment of a debt, now amounting to about the sum of eleven thousand dollars, and another made to one John Hopkins, junior, to secure the payment of a debt now amounting to about the sum of twenty-four hundred dollars; and whereas the said President and Directors of the aforesaid Office of Discount and Deposite, have agreed to authorize their agent to purchase the said land, to be held for the hereinafter mentioned and stipulated uses, trusts, and purposes. Now, this indenture witnesseth: that for and in consideration of the premises, and of one dollar by the said Richard Smith to the said Richard Bland Lee in hand paid, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, he the said Richard Bland Lee and Eliza-

beth his wife, have given, granted, bargained, and sold, aliened, enfeoffed, and confirmed, and do hereby give, grant, bargain, and sell, alien, enfeoff, and confirm, unto the said Richard Smith, his heirs and assigns, for ever, the following tract or parcel of land, situate, lying, and being in the county of Fairfax and Commonwealth of Virginia, containing five hundred and forty acres, and commonly known by the name of Langley, and bounded as follows, to wit: on the south by the turnpike road leading from Georgetown to Leesburg; on the west by the lands of Clement Smith and Roger Jones; on the north by the river Potomac; and on the east by the lands of Robert S Read, Daniel Buzzard, and Clement Smith; and is situated about two and a half miles above the Litte Falls of the said river Potomac: To have and to hold the said tract or parcel of land, with all the appurtenances thereto belonging, unto him, the said Richard Smith, his heirs and assigns, for ever. In trust, nevertheless, for the following uses and purposes and none other; that is to say, that if, after one year from this date, the said Richard Bland Lee shall remain indebted to the said Bank of the United States, on account of the judgment heretofore obtained against him by the said Bank, then, after thirty days notice shall be given to the said R. B. Lee, the said Smith shall at the request of the President, Directors, and Company of the Bank of the United States, or of the Directors for the time being of the said Office of Discount and Deposite, proceed to sell the hereby conveyed premises, or any part thereof, in such manner (after such notice as aforesaid has been given) at such time and place, with such postponements of sale, and upon such terms and conditions of sale, as the said Smith shall deem most beneficial to all the parties concerned in said sale, unless the said premises shall be redeemed before such sale; and shall convey to the purchaser by a good and sufficient deed in fee, all the right, title, and interest and estate, which the said R. B. Lee and Elizabeth his wife, now have therein, and shall apply the proceeds of said sale, after paying the proper expenses thereof, and deducting $2\frac{1}{2}$ per centum of the gross amount of said proceeds as a compensation to the said trustee for his trouble and diligence in executing this trust in the first place to the extinguishment of the debt now due by the said R. B. Lee to the said Bank, and all proper costs and charges thereon, and then to restore and pay over the residue, if any, unto the said R. B. Lee, his heirs or assigns. And it is further covenanted and agreed by the parties to these presents, as a consideration specially moving to the sealing and delivery hereof; that whereas the fee simple of the hereby conveyed premises is vested in the said Elizabeth, subject to the life estate of the said R. B. Lee, if the proceeds of any sale which may be made by virtue of this indenture, shall be sufficient to discharge the debt now due by the said R. B. Lee to the said Bank on the judgments aforesaid, then that the said Smith shall convey all the right, title, and interest which he has in the house and lot in which the said R. B. Lee and Elizabeth his wife now reside, unto the separate use of the said Elizabeth, and her heirs, for ever; which said house and lot is now conveyed to the said Smith, for the purpose of securing the payment of the debt aforesaid;

and the said Richard Bland Lee and Elizabeth his wife for themselves and their heirs, do hereby convenant with the said trustee, that they are possessed of a good title to the premises, and have full power and authority to convey the same, as herein intended to be conveyed, that the premises are clear and free from any encumbrance; that they and their heirs will warrant and for ever defend the same, unto the said trustee, his heirs and assigns, under this deed against all persons whomsoever. And also, that the said R. B. Lee and Elizabeth his wife, or their heirs, shall at all times hereafter, at the reasonable request of the said trustee or his assigns, under this deed, execute, acknowledge, according to law, and deliver to him or them, any other or further instrument which he or they, or his or their counsel learned in the law may require or advise for the better conveyance or more perfect assurance of the premises, as they are herein intended to be conveyed or assured unto the said trustee or his assigns: Provided, nevertheless, That until a sale of the premises as herein specified, the said R. B. Lee and Elizabeth his wife, their or either of their heirs or assigns, shall be permitted to possess, occupy, and enjoy the same as heretofore. But it is understood and agreed between the parties to these presents, that in case the said Bank shall become the purchaser of the aforesaid advertised land, now in the possession of John Hopkins, senior, that the said trustee shall not proceed to sell the hereby conveyed premises until the said Bank shall have sold the said advertised land, and after having discharged the aforesaid mortgages upon it to the said Colston and Hopkins, junior, provided the sale thereof shall enable it to do so, or so much of the said mortgages as the proceeds of the sale thereof will enable the said Bank to discharge, and passing the surplus, if any, to the credit of the said Richard Bland Lee, his heirs or assigns, and the said Richard Smith for himself and his heirs, doth hereby covenant and agree with the said Richard Bland Lee and Elizabeth his wife, their heirs and assigns, executors and administrators, and with the said President, Directors, and Company of the Bank of the United States, that he or they shall and will faithfully execute this trust, and duly account for all moneys or securities which may be received by him or them by virtne thereof, and to all other acts legally and properly appertaining the same, with his and their best judgment, skill, and diligence.

In testimony whereof, the said parties to this instrument, have hereunto set their respective hands and seals, the day and year first herein mentioned.

RICHARD BLAND LEE, [SEAL.]
ELIZABETH LEE. [SEAL.]

Signed, sealed, and delivered in the presence of:

CHARLES H. W. WHARTON,
W. W. SEATON,
NATHANIEL FRY, JR., as to R. B. LEE.

352.

DISTRICT OF COLUMBIA, *County of Washington, to wit:*

We, the subscribers, Robert Getty and Enoch Reynolds, justices of the peace in the District and county aforesaid, do hereby certify that Richard B. Lee, a party to a certain deed, bearing date on the sixteenth day of June, in the year eighteen hundred and twenty-five, and hereto annexed, personally appeared before us in our county and District aforesaid, and acknowledged the same to be his act and deed, and desired us to certify the said acknowledgment to the clerk of the county court of Fairfax, in the Commonwealth of Virginia, in order that the said deed may be recorded.

Given under our hands and seals, this 18th June, in the year aforesaid.

ENOCH REYNOLDS, JR. [SEAL.]
ROBERT GETTY. [SEAL.]

DISTRICT OF COLUMBIA, *County of Washington:*

We, the subscribers, justices of the peace for the county aforesaid, in the District aforesaid, do hereby certify that Elizabeth Lee, wife of Richard Bland Lee, one of the grantors in the above written indenture, personally appeared before us in our county aforesaid, and being examined by us privily and apart from her husband, and having the deed aforesaid fully explained to her; she, the said Elizabeth declared, that she had willingly signed, sealed, and delivered the same, and that she wished not to retract it.

Given under our hands and seals, this 18th day of June, in the year 1825.

C. H. W. WHARTON, [SEAL.]
W. W. SEATON. [SEAL.]

Clerk's Office, Fairfax County Court, July 1st, 1825. This deed from Richard Bland Lee and Elizabeth his wife to Richard Smith, cashier of the Office of Discount and Deposite of the Bank of the United States, in trust for the Bank of the United States, having been duly acknowledged by the said Richard Bland Lee before Enoch Reynolds and Thomas Getty, gentlemen, justices of the peace for the county of Washington in the District of Columbia, and by the said Elizabeth Lee before C. H. W. Wharton and W. W. Seaton, gentlemen, justices of the peace for the county and District aforesaid, and certified by them under their hands and seals and returned to the clerk's office of this county was received, and together with the several certificates of acknowledgment thereto annexed, admitted to record.

Teste: WM. MOSS, *Clerk.*

A copy.

Teste: THOS. MOSS, *Clerk.*

Thereupon, the plaintiff and defendant by their solicitors aforesaid, filed here in court the following agreement, to wit:

Agreement.

In this case it is agreed, that the following facts be, and they are hereby, admitted as true, reserving all objections to the admissibility of the facts as competent testimony in the case, viz: That Richard Bland Lee and his wife Elizabeth, one of the defendants, resided at Fairfax county, in the State of Virginia, on the 9th January, in the year 1809, and said Richard B. Lee then held the negroes and other personal property mentioned in the deed of that date from said Richard B. Lee to Lee, Moffit, and Coleman, filed with defendant Elizabeth's answer, and marked Exhibit No. 3.

That the said R. B. Lee and his wife Elizabeth were housekeepers, and resided together in Fairfax county at the date aforesaid, that the said negroes and other personal property continued in their possession after the deed of the 9th January, 1809, had been made, in like manner as such possession had been held before said deed was made, and so continued until they removed to Washington City in the year 1814 or 1815, when they brought said negroes and other property from Fairfax county with them to the City of Washington. That from the period of said removal to Washington, said personal property as distinguished from the negroes, was assessed by the officers of the corporation as the property of the said Richard B. Lee.

That four of the said negroes were for the first time in the year 1818 assessed to said Richard B. Lee. That prior to the 9th day of January, in the year 1809, the said Richard B. Lee was seized in fee of five undivided eight parts of 8000 acres of land in Spotsylvania county, in the State of Virginia, which was conveyed by said Richard B. Lee and said Elizabeth his wife to Ludwell Lee in fee simple.

The execution, due acknowledgment, and recording of the deed and bills of sale, exhibited with the defendant Elizabeth Lee's answer, is admitted.

The execution and service of the notices exhited with the answer of the defendant Edmund J. Lee, is admitted.

It is admitted that the deed of the 9th January, 1809, was delivered to the trustees therein named, and that they agreed to act, but never took possession of the property therein mentioned, or of any part of it.

RICHARD S. COXE,
For Complainant.
JOHN MARBURY,
For Defendant, E. and E. J. Lee.

And thereupon, the said cause was regularly continued at rules until the 4th Monday in November, 1837. Whereupon, with the consent of the parties aforesaid, by their solicitors aforesaid, and by order of the court here thereon, the said cause is set for hearing on the bill, answers, exhibits, and replication. Whereupon, the said bill, answers, &c. being seen, heard, and ready by the court, and the parties by their solicitors being heard, and the matter being fully

353.

understood, it was ordered by the said court, on mature deliberation, that the complainant's said bill be dismissed, and that the said Elizabeth Lee recover against the said Bank of the United States the sum of

And thereupon, the said Bank of the United States by their solicitor aforesaid, pray an appeal from the decree so as aforesaid rendered to the Supreme Court of the United States; and it is granted them.

Whereupon, they file in court here an appeal bond, which is in the words following, to wit:

Know all men by these presents, that we, Richard Smith, cashier, and Samuel H. Smith, are held and firmly bound unto Elizabeth Lee, in the full and just sum of five hundred dollars current money, to be paid to the said Elizabeth Lee, her certain attorney, executors, administrators, or assigns, to which payment well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, and dated this second day of January, 1838.

Whereas lately at a circuit court of the United States for the District of Columbia, sitting as a court of equity for the county of Washington, wherein the President, Directors, and Company of the Bank of the United States were complainants, and the said Elizabeth Lee, and certain Edmund J. Lee and Richard Smith were defendants, a decree was rendered against the said complainants, and they having entered an appeal to the Supreme Court of the United States.

Now, the condition of the above obligation is such, that if the said complainants shall prosecute their appeal to effect, and answer all damages and costs, if they fail to make their plea good, then the above abligation to be void, otherwise to be and remain in full force and virtue.

RICHARD SMITH, *Cashier*, [SEAL.]
SAMUEL H. SMITH. [SEAL.]

Signed, sealed, and delivered in the presence of:

JOHN SIOUSSA.

Approved, W. CRANCH.

Which being read and heard, and the securities in the said bond being by the court here approved; it is therefore ordered by the court, that the record and proceedings aforesaid in the cause aforesaid, with all things thereunto relating, be transmitted to the said Supreme Court of the United States, and the same are transmitted to the said Supreme Court accordingly.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of the said circuit court for the county aforesaid, this 26th day of February, 1838.

[L. S.]

WILLIAM BRENT, *Clerk*.